

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
 9-102. False weights and measures.

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. (1968 code, § 5-101)

¹Municipal code references

- Building, plumbing, wiring and housing regulations: title 12.
- Health and sanitation: title 13.
- Junkyards: title 13.
- Liquor and beer regulations: title 8.
- Noise reductions: title 11.
- Posting advertisements and notices: title 11.
- Taxation: title 5.
- Zoning: title 14.

9-102. False weights and measures. It shall be unlawful for any person to sell or offer for sale any merchandise, goods, or wares by false weights or measures. (1968 code, § 5-102)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

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

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

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

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the

¹Municipal code reference

Privilege taxes: title 5.

Trespass by peddlers, etc.: section 11-801.

State law references

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

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

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

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

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

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

(5) "Transient vendor" means any person who brings onto temporary premises stocks of merchandise and offers to sell said merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog who does not remain at one location. For purposes of this definition, "merchandise" means any consumer item that is offered for sale, whether said item is new or used, and "temporary premises" means any public or quasi-public place including a motel, hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, parking lot, railroad car, motor vehicle or along any public street within twenty-five (25') feet of the roadway which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public for sale. Premises are not temporary if the same person or organization has conducted business at those premises for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (as amended by Ord. #95-1303, § 1, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-202. Exemptions. The terms of this chapter shall not apply to:

(1) Persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, so long as said merchants have a permanent place of business, nor to persons selling agricultural products, so long as those agricultural products were produced by the persons and are sold only at the Farmer's Market. The selling

of agricultural products by transient vendors at any place other than the Farmer's Market on South Maple Street shall be forbidden.

(2) Vendors of Christmas trees who operate between November 1 and December 31 of each year, nor to fireworks vendors that operate under the permits and codes for said fireworks vendors.

(3) The provisions of this chapter do not apply to "garage sales" so long as the garage sale does not occur at a frequency more often than three (3) days per month.

(4) The provisions of this chapter do not apply to "flea markets" which are operating in an established commercial zone at a permanent location and structure.

(5) This chapter does not apply to sales conducted under authorized programs at the James Ward Center or during events sponsored and sanctioned by the City of Lebanon.

All other persons not specifically exempted herein shall be governed by the provisions of said chapter. (as amended by Ord. #95-1303, §§ 2 and 3, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions or book sales shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (as amended by Ord. #95-1327, §§ 1 and 2, July 1995)

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

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

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

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

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

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

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a non-refundable fee of fifty dollars (\$50.00) for each period of said permit not to exceed a duration of five (5) consecutive days. There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions and book sales. In addition to the permit fee described herein, a transient vendor shall pay any additional permit fee as stated in section 9-206(b).

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (as amended by Ord. #95-1303, § 4, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

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

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (as amended by Ord. #93-1083, Sept. 1993; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-206. Restrictions on transient vendors. (1) A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire,

water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

(2) In addition to the permit fee required under section 9-204(2) in the amount of fifty dollars (\$50.00) for each permit which shall have only a five (5) day duration, an additional transient vendor fee is required, which shall be a sum of one hundred dollars (\$100.00) per day for each permit day requested by the transient vendor. (as amended by Ord. #95-1303, § 5, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions and book sales is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer or codes enforcer upon demand. (as amended by Ord. #95-1327, §§ 1 and 2, July 1995)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (as amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire five (5) days after the issuance thereof, and shall require the renewal of said permit and the payment of a fee under the provisions of LMC 9-204(2) for operation beyond the initial five (5) day duration. The permit for solicitors for subscriptions or book sales shall be valid for a period of ninety (90) days. A transient vendor's renewal shall also require the additional permit fee of one hundred dollars (\$100.00) per day as stated in LMC 9-206. (as amended by Ord. #95-1303, § 6, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

9-210. Violation and penalty. (1) In addition to any other action the City of Lebanon may take against a person or organization in violation of this chapter, the failure of any person or organization to obtain the required permits and pay the fees stated hereunder shall be a violation punishable by a fine of fifty dollars (\$50.00) for each day that said person or organization is in violation of this chapter.

(2) Furthermore, the City of Lebanon may pursue action in chancery court to obtain injunctive relief concerning any violators of this chapter. (as amended by Ord. #95-1303, § 7, May 1995; and further amended by Ord. #95-1327, §§ 1 and 2, July 1995)

CHAPTER 3

TAXICABS¹

SECTION

- 9-301. Definitions.
- 9-302. Certificate of public convenience and necessity required.
- 9-303. Application for certificate.
- 9-304. Public hearing.
- 9-305. Issuance or denial of certificate.
- 9-306. Liability insurance required.
- 9-307. License fees.
- 9-308. Transfer of certificates.
- 9-309. Suspension and revocation of certificates.
- 9-310. Taxicab driver's permit required.
- 9-311. Application for driver's permit.
- 9-312. Examination of applicant--current state special chauffeur's license required.
- 9-313. Police investigation of applicant--traffic and police record.
- 9-314. Consideration of application.
- 9-315. Issuance of license--duration--annual fee.
- 9-316. Display of license.
- 9-317. Suspension and revocation of licenses.
- 9-318. Drivers to comply with city, state, and federal laws.
- 9-319. Vehicles--equipment and maintenance.
- 9-320. Designation of taxicabs.
- 9-321. Receipts.
- 9-322. Refusal of passenger to pay legal fare.
- 9-323. Receipt and discharge of passengers on sidewalk only.
- 9-324. Restriction on number of passengers.
- 9-325. Refusal to carry orderly passengers prohibited.
- 9-326. Selling liquor prohibited.
- 9-327. Payment of fare in advance.
- 9-328. Taxicab service to be comprehensive.
- 9-329. Accidents.
- 9-330. Advertising.
- 9-331. Police department--duty to enforce chapter.
- 9-332. Rates.
- 9-333. Applicability of chapter to holders of certificates issued without a hearing.
- 9-334. Violations.

¹Charter reference: Art. II, § 1 (47).

9-301. Definitions. The following words and phrases when used in this chapter shall have the meaning as set out herein:

(1) "Certificate" means a certificate of public convenience and necessity, issued by the city council authorizing the holder thereof to conduct a taxicab business in Lebanon, Tennessee.

(2) "Driver's permit" means the permission granted by the city council to a person to drive a taxicab upon the streets of the City of Lebanon.

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

(4) "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

(5) "Rate card" means a card which contains the rates of fare then in force and which is issued by the city council for display in each taxicab.

(6) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire primarily within the corporate limits and the suburban territory adjacent thereto. (1968 code, § 5-401)

9-302. Certificate of public convenience and necessity required.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City of Lebanon without having first obtained a certificate of public convenience and necessity from the city council. (1968 code, § 5-402)

9-303. Application for certificate. An application for a certificate shall be filed with the commissioner of finance and revenue upon forms provided by the City of Lebanon. The application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant.

(2) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments.

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

(4) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.

(5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.

(6) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.

(7) Such further information as the city council may require. (1968 code, § 5-403)

9-304. Public hearing. Upon the filing of an application the city council shall fix a time and place for a public hearing thereon. Notice of the hearing shall be given to the applicant and to all persons to whom certificates of public

convenience and necessity have theretofore been issued. Due notice shall also be given the general public by posting a notice of the hearing in the city hall. Any interested person may file with the city council a memorandum in support of or in opposition to the issuance of a certificate. (1968 code, § 5-404)

9-305. Issuance or denial of certificate. If the city council finds that further taxicab service in the City of Lebanon is required by the public convenience and necessity and that the applicant is fit and willing to comply with the provisions of this chapter and any other rules promulgated by the city council, then the commissioner of finance and revenue shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied. In making the above findings, the city council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant. (1968 code, § 5-405)

9-306. Liability insurance required. No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the State of Tennessee for each vehicle in the amount of \$10,000.00 for bodily injury or death to any one person, \$20,000.00 for bodily injuries or death to more than one person which are sustained in the same accident, and \$5,000.00 for property damage resulting from any one accident. (1968 code, § 5-406)

9-307. License fees. No certificates shall be issued or continued in operation unless the holder thereof has paid an annual license fee of \$35.00 (thirty-five dollars) for the first automobile, \$25.00 (twenty-five dollars) for the second automobile and \$15.00 (fifteen dollars) for each additional vehicle per annum operated under a certificate of public convenience and necessity. These license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by the proper authority and applicable to the holder of the vehicle or vehicles under his operation and control. (1968 code, § 5-407)

9-308. Transfer of certificates. No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the city council. (1968 code, § 5-408)

9-309. Suspension and revocation of certificates. (1) A certificate issued under the provisions of this chapter may be revoked or suspended by the city council if the holder thereof has:

- (a) Violated any of the provisions of this chapter.
 - (b) Discontinued operations for more than ten days.
 - (c) Violated any law involving moral turpitude.
- (2) Prior to any revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard by the city council. (1968 code, § 5-409)

9-310. Taxicab driver's permit required. No person shall operate a taxicab upon the streets of Lebanon and no person who owns or controls a taxicab shall permit it to be driven unless the driver has obtained and has in force a taxicab driver's permit issued under the provisions of this chapter. (1968 code, § 5-410)

9-311. Application for driver's permit. (1) An application for a taxicab driver's permit shall be filed with the city council on forms provided by the city. The application shall be verified under oath and shall contain the following information.

- (a) The names and addresses of four residents of the City of Lebanon who have known the applicant for a period of two years and who will vouch for the sobriety, honesty, and general good character of the applicant.
 - (b) The experience of the applicant in the transportation of passengers.
 - (c) The educational background of the applicant.
 - (d) A concise history of his employment.
- (2) Each application shall be accompanied by a certificate from a reputable physician of the City of Lebanon certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver.
- (3) At the time the application is filed the applicant shall pay to the commissioner of finance and revenue the sum of one dollar (\$1.00) per driver. (1968 code, § 5-411)

9-312. Examination of applicant—current state special chauffeur's license required. Before any application is finally passed upon by the city council, the applicant shall pass a satisfactory examination as to his knowledge of the city and show that he has a current state special chauffeur's license. (1968 code, § 5-412)

9-313. Police investigation of applicant—traffic and police record. The police department shall conduct an investigation of each applicant for a taxicab driver's license, and a report of the investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for

the consideration of the city council. No license shall be issued to any person who is under the age of 21. (1968 code, § 5-413)

9-314. Consideration of application. The city council shall, upon consideration of the application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city council to offer evidence why his application should be reconsidered. (1968 code, § 5-414)

9-315. Issuance of license—duration—annual fee. Upon approval of an application for a taxicab driver's license the commissioner of finance and revenue shall issue to the applicant a license which shall bear the name, address, color, age, and signature of the applicant. The license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall be issued upon the payment of \$2.00 per driver, unless the license for the preceding year has been revoked. (1968 code, § 5-415)

9-316. Display of license. Every driver licensed under this chapter shall post his driver's license in such a place in his taxicab as to be in full view of all passengers while the driver is operating the taxicab. (1968 code, § 5-416)

9-317. Suspension and revocation of licenses. The city council may suspend any driver's license issued under this chapter for a driver's failing or refusing to comply with the provisions hereof, such suspension to last for a period of not more than sixty (60) days. The city council may also revoke any driver's license for failure to comply with the provisions of this chapter. However, a license may not be revoked unless the driver has received notice and has an opportunity to present evidence in his behalf. (1968 code, § 5-417)

9-318. Drivers to comply with city, state, and federal laws. Every driver licensed under this chapter shall comply with all city, state, and federal laws. (1968 code, § 5-418)

9-319. Vehicles—equipment and maintenance. Prior to the use and operation of any vehicle under the provisions of this chapter, the vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the department. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the police department deems necessary therefor. When the police department finds that a vehicle has met the standards established, the department shall issue a license to that effect, which shall also state the authorized seating capacity of the vehicle. Every vehicle operating under this chapter shall be periodically inspected by the police department at such intervals as are established by the police department to insure the continued

maintenance of safe operating conditions. A fee of \$2.00 shall be charged for each inspection.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the police department. (1968 code, § 5-419)

9-320. Designation of taxicabs. Each taxicab shall bear on the outside of each rear door, in painted letters not less than two (2) inches nor more than four (4) inches in height, the name of the owner. (1968 code, § 5-420)

9-321. Receipts. The driver of any taxicab shall upon demand by the passenger render to the passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt, on which shall be the name of the taxicab owner, the license number or motor number of the taxicab, the amount of charges, and the date of transportation. (1968 code, § 5-421)

9-322. Refusal of passenger to pay legal fare. It shall be unlawful for any person to refuse to pay the legal fare of any taxicab after having hired it, and it shall be unlawful for any person to hire any taxicab with intent to defraud the person from whom it is hired of the value of such service. (1968 code, § 5-422)

9-323. Receipt and discharge of passengers on sidewalk only. Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk to the extreme right-hand side of the road and there receive or discharge passengers, except upon a one-way street, where passengers may be received or discharged at either the right or left hand sidewalk, or side of the roadway in the absence of a sidewalk. (1968 code, § 5-423)

9-324. Restriction on number of passengers. No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as stated in the license for the vehicle issued by the police department. A child in arms shall not be counted as a passenger. (1968 code, § 5-424)

9-325. Refusal to carry orderly passengers prohibited. No driver shall refuse or neglect to convey an orderly person, or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so. (1968 code, § 5-425)

9-326. Selling liquor prohibited. No driver shall engage in the sale or transportation of intoxicating liquors prohibited by state or local law. (1968 code, § 5-426)

9-327. Payment of fare in advance. Every driver of a taxicab shall have the right to demand payment of the regular fare in advance, and may refuse employment unless so prepaid. (1968 code, § 5-427)

9-328. Taxicab service to be comprehensive. All persons engaged in the taxicab business in the City of Lebanon shall render an over-all service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep the same open twenty-four (24) hours a day for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of Lebanon as soon as they can do so, and if the call cannot be answered they shall give the reason therefor. Any holder who refuses to accept a call anywhere in the corporate limits of the City of Lebanon at any time when the holder has an available cab, or who fails or refuses to give over-all service, shall be deemed a violator of this chapter and the certificate granted to such holder shall be revoked at the discretion of the city council. (1968 code, § 5-428)

9-329. Accidents. All accidents arising from or in connection with the operation of taxicabs and which result in death or injury to any person, or in damage to any vehicle or to any property in an amount exceeding the sum of fifty dollars (\$50.00) shall be reported within twenty-four (24) hours from the time of occurrence to the police department on a form of report to be furnished by the department. (1968 code, § 5-429)

9-330. Advertising. Subject to the approval of the city council, it shall be lawful for any person owning or operating a taxicab to permit advertising matter to be affixed to or installed in or on such vehicle. (1968 code, § 5-430)

9-331. Police department--duty to enforce chapter. The police department is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report it to the city council which will order or take appropriate action. (1968 code, § 5-431)

9-332. Rates. All taxicabs operating under the provisions of this chapter shall charge a basic fee or rate which shall be approved by the city council. No changes in these rates shall be made at any time without the approval of the city council. When changes are desired by the taxicab owners or operators to be

made in the rate schedule, the taxicab owners or operators shall submit to the city council a proposed schedule of rates showing the changes desired to be made. (1968 code, § 5-432)

9-333. Applicability of chapter to holders of certificates issued without a hearing. Although a certificate of convenience and necessity may be issued for immediate operation of taxicabs, the holder of any such certificate must also otherwise comply with the provisions of this chapter within sixty (60) days from the effective date of these provisions. (1968 code, § 5-433)

9-334. Violations. Any person, firm, or corporation violating any section of this chapter shall be guilty of a misdemeanor and subject to a fine under the general penalty clause for this code. (1968 code, § 5-434)

CHAPTER 4

PAWNBROKERS, JUNK DEALERS, AND SECONDHAND DEALERS

SECTION

- 9-401. Definitions.
- 9-402. Register of transactions required.
- 9-403. Daily copy of register to be furnished to police.
- 9-404. Arrangement of stock for inspection.
- 9-405. Dealing with minors prohibited.

9-401. Definitions. (1) "Pawnbroker." Any person whose business is to take or receive by way of pledge, pawn, or exchange any goods, wares, or merchandise, or article of personal property of any kind as security for money lent thereon, for the purpose of this chapter, is hereby declared to be a pawnbroker.

(2) "Junk dealer." Any person in the business of buying, selling, or dealing in old junk, metal, bottles, siphons, books, or other articles and having a store, stand, place of business, or junk yard, for the purpose of this chapter, is hereby declared to be a junk dealer.

(3) "Secondhand dealer." Any person engaged in the business of purchasing or selling goods of any kind or description, having once been used or transferred from the manufacturer to the dealer and then received into the possession of third parties, whether same consists of clothes, rags, iron or other metal, or furniture, household utensils, articles of personal use or wearing apparel, jewelry of any kind or description, old gold or silver, plumbing fixtures, secondhand building materials, or any other goods of the class considered personalty, whether related to any of the goods above specifically described or not, is hereby declared to be a secondhand dealer. (1968 code, § 5-701)

9-402. Register of transactions required. Any and all persons engaged in business as a pawnbroker, a junk dealer, or as a secondhand dealer shall keep a register in connection with such business and at the close of business on each day shall enter or cause to be entered therein an accurate description of the person from whom any article of personal property is purchased or received, or to whom any loan is made on personal property, and shall include in the description the name, age, sex, color, nationality, and place of residence of the person, together with an accurate description of any article of personal property so purchased or received, or upon which a loan is made. The description shall contain any mark, brand, monogram, word or letters blown, stamped, etched or otherwise permanently marked upon the article. The register shall at all times be kept open for the inspection and examination of the chief of police or any other person authorized by the chief of police to inspect it. (1968 code, § 5-702)

9-403. Daily copy of register to be furnished to police. All pawnbrokers, junk dealers, and secondhand dealers shall, not later than 10:00 A.M. of each day, furnish to the chief of police a full and complete copy or transcript of the register in which is entered the transactions of the preceding day as required by section 9-402 above. (1968 code, § 5-703)

9-404. Arrangement of stock for inspection. All articles purchased or received by pawnbrokers, junk dealers, and secondhand dealers shall be so arranged in stock as to enable them to be inspected by the police department or any other person in authority. (1968 code, § 5-704)

9-405. Dealing with minors prohibited. It shall be unlawful for any pawnbroker, junk dealer, or secondhand dealer to buy, take, or receive by way of pledge, pawn, or exchange, any goods, wares, or merchandise or article of personal property of any kind from any person under the age of eighteen (18) years. (1968 code, § 5-705, modified)

CHAPTER 5

FAIR HOUSING CODE

SECTION

- 9-501. Title.
- 9-502. Definitions.
- 9-503. Purpose of law; construction; effect.
- 9-504. Unlawful housing practices.
- 9-505. Blockbusting.
- 9-506. Exemptions from housing provisions.
- 9-507. Enforcement.
- 9-508. Agency no defense in proceeding against real estate dealer.
- 9-509. Establishment of procedures for conciliation.
- 9-510. Findings of hearing board; nature of affirmative action.
- 9-511. Investigations, powers, records.
- 9-512. Conspiracy to violate this chapter unlawful.

9-501. Title. This chapter shall be known and may be cited as the City of Lebanon Fair Housing Ordinance. (Ord. 78-449, § 14-107)

9-502. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Hearing board" means that body of citizens duly appointed by the city council to hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(2) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(3) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal or incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot, or part thereof which is used or

occupied, or is intended, arranged, or designed to be used or occupied as a home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the city or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual whether licensed or not who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these. (Ord. 78-449, § 14-102)

9-503. Purpose of law; construction; effect. The general purposes of this chapter are:

(1) To provide for execution within the City of Lebanon of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

(2) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, national origin, or sex; thereby to protect their interest in personal dignity and freedom from humiliation; to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the city.

Nothing contained in this chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin, or sex. (Ord. 78-449, § 14-103)

9-504. Unlawful housing practices. It is an unlawful practice for a real estate owner or operator or for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent, or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, or sex;

(2) To discriminate against an individual because of his or her race, color, religion, national origin, or sex in the terms, conditions, or privileges of the sale, exchange, rental, or lease of real property or in the furnishing of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin, or sex;

(5) To represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin, or sex;

(6) To print, circulate, post, or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, national origin, or sex or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin, or sex; or

(8) Otherwise to deny to or withhold real property from an individual because of race, color, religion, national origin, or sex. (Ord. 78-449, § 14-104)

9-505. Blockbusting. It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in

the quality of schools in the block, neighborhood, or area in which the real property is located. (Ord. 78-449, § 14-105)

9-506. Exemptions from housing provisions. (1) Nothing in section 9-504 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations;

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) Nothing in this chapter shall prevent a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in the religion is restricted on account of race, color, sex, or national origin.

(3) Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (Ord. 78-449, § 14-106)

9-507. Enforcement. (1) The violation of any of the provisions of this chapter shall subject the violator to a penalty authorized in the general penalty clause for this code.

(2) The city may sue in a civil action through the chancery or circuit court for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions. (Ord. 78-449, § 14-107, modified)

9-508. Agency no defense in proceeding against real estate dealer. It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other persons subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (Ord. 78-449, § 14-108)

9-509. Establishment of procedures for conciliation. (1) The city shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation

efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The city council shall establish a hearing board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the board shall commence whenever the agent(s) acting on behalf of the city decides a conciliation failure has occurred and the respondent agrees to participate in the hearing board proceedings. Hearing open to the public may be initiated by the responding party at any time during the conciliation process. (Ord. 78-449, § 14-109)

9-510. Findings of hearing board; nature of affirmative action.

(1) If the hearing board determines that the respondent has not engaged in an unlawful practice, the board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the board deems proper.

(2) If the hearing board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complainant, the city attorney and such other public officials, officers, and persons as the board deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

- (a) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;
- (b) Reporting as to the manner of compliance;
- (c) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing board;
- (d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;
- (e) Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, and expenses incurred by the complainant as a direct result of its unlawful practice.

(4) The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this chapter. (Ord. 78-449, § 14-110)

9-511. Investigations, powers, records. (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records, and

documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

(2) Every person subject to this chapter shall make, keep, and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the hearing board for an exemption from the application of the regulation or order. If the board finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (Ord. 78-449, § 14-111)

9-512. Conspiracy to violate this chapter unlawful. It shall be an unlawful practice for a person, or for two or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing board, or any of its members or representatives in the lawful performance of duty under this chapter. (Ord. 78-449, § 14-112)

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the City of Lebanon and its inhabitants under franchise granted by the city council of the City of Lebanon, Tennessee. The rights, powers, duties and obligations of the City of Lebanon and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see ord. #94-1249, April 1995; ord. #95-1265, Feb. 1995; ord. #95-1297, April 1995; ord. #95-1394, Dec. 1995; ord. #96-1429, Feb. 1996; ord. #95-1412, Feb. 1996; and ord. #99-1965, Aug. 1999, in the office of the city recorder.

CHAPTER 7

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-701. Definitions.
- 9-702. State statutes; licensing requirements.
- 9-703. T.C.A. requirements.
- 9-704. Unlawful acts.
- 9-705. Zoning requirements.
- 9-706. Operation.
- 9-707. Fines.

9-701. Definitions. For purposes of this chapter, the following definitions shall be used:

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

(2) "Adult cabaret" means a cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers;

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers;

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

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

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

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment;

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor;

(9) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

(10) "Escort service" means a person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts;

(11) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;

(12) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;

(13) "Person" means an individual, partnership, limited partnership, firm, corporation or association;

(14) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
 - (i) Human genitals;

- (ii) Pubic region;
- (iii) Buttocks; and
- (iv) Female breasts below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely opaquely covered; and
- (15) "Specified sexual activities" means:
 - (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;
 or
 - (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (Ord. #95-1325, § 1, July 1995)

9-702. State statutes; licensing requirements. All persons operating an adult-oriented establishment within the city limits of Lebanon, Tennessee shall obey and follow all state statutes, including but not limited to all statutes concerning nudity and shall also comply with any licensing requirements which may be required under state, county or city law. (Ord. #95-1325, § 2, July 1995)

9-703. T.C.A. requirements. (1) All persons, operators or owners of an adult-oriented establishment, as defined herein, or by applicable state law, shall comply to the requirements of T.C.A., section 39-17-901 through T.C.A., section 39-17-908 and T.C.A., section 39-17-911, and T.C.A., section 39-17-914, and T.C.A., section 39-17-918 through T.C.A. section 39-17-920, or be subject to prosecution under said state law.

(2) All persons, operators or owners of an adult-oriented establishment, as defined herein, or by applicable state law, shall comply with the requirements of T.C.A., section 39-13-511 or be subject to prosecution under the provisions of said statute. (Ord. #95-1325, §§ 3 and 4, July 1995)

9-704. Unlawful acts. It shall be unlawful for any person maintaining, owning or operating an adult cabaret located within the City of Lebanon, Tennessee:

- (1) To permit any dancer to fondle or caress any patron or to permit any patron to fondle or caress any dancer; or
- (2) To permit dancing at any location which shall encourage the patrons to fondle or caress a dancer; or
- (3) To permit any dancer to solicit any pay or gratuity from any patron.

No person who maintains, owns or operates an adult-oriented establishment shall permit specified sexual activities to occur on the premises. (Ord. #95-1325, §§ 5 and 6, July 1995)

9-705. Zoning requirements. (1) No adult-oriented establishment may begin to operate except within the confines of an M-3 zoning district as defined under the zoning laws of the City of Lebanon, pursuant to Ordinance No. 95-1286.

(2) No adult-oriented establishment shall be operated or maintained within one thousand (1,000') feet of a residentially zoned district, the property line of a lot devoted to residential use, a church, a state licensed day care facility, public library, or private/public education facility which serves persons ages 17 years or younger, an elementary school, a high school, funeral parlor/home, a public park, or another adult-oriented establishment as defined herein. To determine the distance requirements under this section, said distance limitation shall be measured in a straight line from and to the nearest lot lines of the premises for the adult-oriented establishment and the lot lines of the above defined areas.

(3) No commercial building, structure, premises or subdivision, or part thereof, or facilities therein, shall be so constructed, used, or operated for the purposes of high-risk sexual conduct as defined by "specified sexual activities"; and no commercial building, structure, premises or subdivision, or part thereof, or facilities therein, shall be designed for or used to promote high-risk sexual conduct which could be conducive to the spread of Acquired Immune Deficiency Syndrome (AIDS), and any commercial building or structure which is constructed or used for such activities shall be in violation of this chapter.

(4) To promote the health, safety and welfare of all persons in the City of Lebanon, no person shall occupy any commercial building, structure, or premises, or portion or part thereof which fails to comply with the following requirements:

(a) For the prevention of the spread of sexually-transmitted disease, no partitions between subdivisions of a room, portion or part of a building, structure or premises may have an aperture which is designed or otherwise constructed to encourage sexual activities or contact, between persons on either side of the partition.

(b) No booths, stalls, or partition portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall have doors, curtains or portal partitions, but all such booths, stalls, partition portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of adult-oriented entertainment, are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered adult-oriented entertainment.

(c) No commercial building, structure or premises shall be so constructed that private rooms or accommodations can be offered to patrons of that business operated therein if:

(i) the building structure or premise is in violation of this chapter; and

(ii) the building, structure or premises is not a validly operating hotel, motel, apartment complex or condominium. (Ord. #95-1325, §§ 7, 8, 9 and 10, July 1995)

9-706. Operation. During the operation of an adult-oriented establishment, where booths or cubicles are employed, only one individual shall occupy a booth, room or cubical at any one time. No occupant of a booth, room or cubical shall engage in any type of sexual activity which may cause any bodily discharge or litter while in the booth. The owner and operator of the adult-oriented establishment shall maintain the premises in a clean and sanitary manner at all times. (Ord. #95-1325, § 11, July 1995)

9-707. Fines. (1) Any person violating this chapter shall commit an offense against the City of Lebanon, Tennessee, and upon conviction shall be fined under appropriate state law, or shall be fined for a conviction within the City Court of Lebanon, Tennessee, with the maximum fine allowed by law. Each day such violation shall continue shall constitute a separate offense and be subject to the maximum fine. This chapter does not apply to any theatrical production which is performed in a theater by a professional or amateur theatrical or musical company and which has serious artistic merit, or to any other actions which are construed to have serious artistic merit. Furthermore, nothing in this ordinance shall be construed to infringe upon or to violate the First Amendment of the United States Constitution or any provisions of the Constitution of the State of Tennessee.

(2) Any real property found to be in violation of the requirements stated in this chapter may also be subject to an order of closure, and/or cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this law. (Ord. #95-1325, § 12 and 13, July 1995, and amended by Ord. #98-1780, Aug. 1998)

CHAPTER 8

TREE TRIMMERS, CUTTERS, SPRAYERS, AND
STUMP GRINDERS

SECTION

- 9-801. License required--fee.
- 9-802. Insurance prerequisite to issuance.
- 9-803. Terms.
- 9-804. Revocation hearing--appeal.
- 9-805. Application after revocation.
- 9-806. Penalty.
- 9-807. Exceptions.

9-801. License required--fee. No person, firm, association, or corporation shall engage in the business of tree trimming, tree cutting, tree spraying or stump grinding for a fee within the corporate limits of the city, without first having obtained a license from the city clerk's office. The fee for such license shall be \$50.00 per year. (as added by Ord. #99-1962, § 1, July 1999)

9-802. Insurance prerequisite to issuance. Before such license shall be issued by the city, the applicant for such license must file and deposit with the city clerk a policy of insurance issued by an insurance company authorized to do business in the State of Tennessee, which insurance policy so issued shall provide liability insurance coverage for property damage, personal injury or death in an amount of not less than \$100,000.00. The insurance policy shall be effective whether the tree service at the time of any accident was being performed by the licensee, his agent, servant, or employee. Such policy shall carry an endorsement providing for actual notice to the city of any changes thereof. The insurance policy shall further provide that it cannot be cancelled until fifteen days written notice has been filed with the city clerk. Such license shall be automatically revoked upon receipt of cancellation of such insurance policy. (as added by Ord. #99-1962, § 2, July 1999)

9-803. Terms. (1) Each license issued under this chapter shall be valid for one (1) year after its due date of insurance, unless it is revoked for cause by the commissioner of finance and revenue. Substantial violation of applicable city ordinances, substantial violation of state law, or substantial damage to persons, property, or wildlife shall constitute cause for revocation of such license, after notice and opportunity for a hearing as provided in section 9-804 herein.

(2) The time for removal of tree cuttings, limbs, trunks, branches, twigs, grindings, spray containers and spray apparatus, by commercial tree

trimmers after completion of the work, is seventy-two hours when such work is performed under normal weather and environmental conditions; and further, the removal of such debris is extended for a reasonable period of time beyond the seventy-two hour period in the event of a natural disaster such as tornado, flood, earthquake and like circumstances; and further, all such materials shall be transported and properly disposed of in an environmentally safe manner. (as added by Ord. #99-1962, § 3, July 1999, and amended by Ord. #99-1998, Sept. 1999, modified)

9-804. Revocation hearing--appeal. In the event it is determined that a license should be revoked for violation of any of the provisions of this chapter, a written notice of the intent to revoke the license, setting forth the reasons for such action, shall be sent to the licensee by certified mail, return receipt, and the licensee shall have the right to request a hearing upon the issue of revocation, provided such request is made in writing within fifteen (15) days following receipt of said notice. The hearing provided for in this part shall be conducted before the commissioner of public works within fifteen (15) days after the date of the return receipt of said notice. The procedures of such hearing shall be in accordance with those prescribed by the commissioner to assure due process of law. The commissioner shall forward his factual findings and recommendations to the commissioner of finance and revenue, under whose authority such licenses are issued and may be revoked, suspended, or denied for just cause. The commissioner of finance and revenue shall issue a decision within seven (7) working days of his receipt of such written report. Such decision shall be final unless appealed to the city court within thirty (30) days thereafter by any party adversely affected by such decision. Such appeal to the city court shall not be de novo, but shall be limited to a review of the record of the hearing at the city administrative level. (as added by Ord. #99-1962, § 4, July 1999)

9-805. Application after revocation. Whenever revocation of a license has become final, the holder of the revoked license may make written application to the city clerk for a new license, and the clerk shall issue a new license upon proof of compliance with the provisions of this chapter. (as added by Ord. #99-1962, § 5, July 1999)

9-806. Penalty. Any person, firm or corporation violating any provision of this chapter shall be fined not less than five (\$5.00) dollars nor more than five hundred (\$500.00) dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (as added by Ord. #99-1962, § 6, July 1999)

9-807. Exceptions. Any individual who trims, cuts, sprays, or grinds trees or his own property shall not be deemed to be engaged in the business as

a professional service and shall not be subject to the license requirements set forth herein. (as added by Ord. #99-1962, § 7, July 1999)

CHAPTER 9

AUTOMATIC AMUSEMENT DEVICES

SECTION

- 9-901. Definition.
- 9-902. License--fee.
- 9-903. Issuance.
- 9-904. Devices to be kept in plain view--gambling devices prohibited.
- 9-905. Inspection.
- 9-906. Revocation--civil penalty.
- 9-907. Exemptions.
- 9-908. Severability.

9-901. Definition. The term "mechanical amusement device" is hereby defined to be each machine which, upon the insertion of a coin, trade-token or slug, operates or may be operated as a game or contest of skill or amusement of any kind or description, and which contains no automatic payoff device for the return of money, trade-tokens or slugs, or which makes no provision whatever for the return of money to the player. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-902. License--fee. It shall be unlawful for any person, firm, corporation, limited liability company, or partnership to install, operate or maintain any such mechanical amusement device without having first obtained a license therefor. Applications shall be made to the city business tax clerk. The fee for such licenses shall be fifty dollars per year or any portion of a year. The license period shall be the same as the calendar year. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-903. Issuance. No license shall be issued to a person who has a prior conviction of GAMBLING ref Tennessee Code Annotated, §§ 39-17-501 to 39-17-509. Upon approval of the applicant and payment of the license fee, the city clerk shall issue a permit bearing the notation, City of Lebanon License for the calendar year _____. One license shall be issued for each mechanical amusement device licensed, and it shall be placed in a conspicuous place and so affixed that it cannot be transferred from one machine to another. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-904. Devices to be kept in plain view--gambling devices prohibited. All such devices shall at all times be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such mechanical amusement devices are kept or used. All such devices may be operated only during normal business hours of said establishment.

Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-905. Inspection. The chief of police or his duly authorized designee shall inspect or cause to be inspected any place or building in which any such mechanical amusement device or devices are stored, operated or set up for operation, and to inspect, investigate and test such devices, as often as he may deem necessary. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-906. Revocation--civil penalty. In addition to any other penalty imposed by state law governing such devices, the commissioner of finance may revoke such license for any violation of this chapter, article or ordinance, or of any ordinance pertaining to the conduct of such business; and, in addition the city judge may impose a civil penalty not to exceed two hundred fifty dollars plus court cost for the first violation and five hundred dollars for each violation thereafter. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-907. Exemptions. The City of Lebanon has a number of businesses that provide entertainment to children. There are numerous games designed to be operated for the amusement of children on mechanical amusement devices. These particular devices upon inspection of the chief of police or his authorized designee shall be declared exempt from this chapter and a notice stating such shall be placed on the device. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)

9-908. Severability. Each section, subsection, paragraph, sentence, and clause of the ordinance to regulate automatic amusement devices in the City of Lebanon, Tennessee is hereby declared separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in Ordinance No. 99-1904 shall not affect the validity of any other portion of said ordinance, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom. (Ord. #99-1904, Feb. 1999, as replaced by Ord. #99-1945, June 1999)