

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>**

**CHAPTER**

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**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

9-101. "Going out of business" sales.

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely 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. (1993 Code, § 5-101)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

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## CHAPTER 2

### PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### 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 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:

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<sup>1</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

(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" organizations for charitable or religious organizations.

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

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

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

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

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<sup>1</sup>State law references

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

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

selling or offering to sell novelty items and similar goods in the area of the festival or parade. (as replaced by Ord. #978, Aug. 2014)

**9-202. Exemptions.** The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons who attempt to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular political party, political issue, or political candidate, even if the personal contact involves distribution of a handbill or flyer advertising the particular political party, political issue, or political candidate, or involves accepting the donation of money for or against the particular political party, political issue, or political candidate. (1993 Code, § 5-202, as replaced by Ord. #978, Aug. 2014)

**9-203. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has complied with the provisions of § 9-204. (1993 Code, §§ 5-201 and 5-301, as replaced by Ord. #978, Aug. 2014)

**9-204. Permit procedure.** (1) Application form. A sworn application containing the following information shall be completed and filed with the finance director or his/her designee 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) An identification photograph of the applicant, taken by the city finance director or his/her designee.
- (c) A brief description of the type of business and the goods to be sold.
- (d) The dates for which the applicant intends to do business or make solicitations.
- (e) The names and permanent addresses of each person who will make sales or solicitations within the city.
- (f) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.
- (g) 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 nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the city finance director or his/her designee shall issue a permit and provide a copy of the same to the applicant.

(4) Permit to be worn by peddlers and solicitors. After the issuance of the permit, an additional copy of the permit shall be provided to all peddlers and solicitors in a form, such as a pin or lanyard, appropriate for display on their person. This copy of the permit shall be visible and worn on the person of the peddler or solicitor at all times while making sales or solicitations. Furthermore, the peddler or solicitor must present the permit for inspection prior to making sales or solicitations. This subsection (4) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(5) Additional permit holder designation display; vehicle designation fee. In addition to subsections (2), (3) and (4) above, all peddlers and solicitors shall be provided with a magnet, sticker, or similar permit holder designation display designed by the city manager or his/her designee, and/or the chief of police or his/her designee. The permit holder designation display shall be placed on the front driver-side door of any vehicle used by a peddler or solicitor at all times while making sales or solicitations. All peddlers and solicitors shall pay a permit holder designation display fee of twenty-five dollars (\$25.00), regardless of whether they own or operate a vehicle. A designation display provided under this subsection shall expire and be renewed in the same manner as a permit under § 9-209 below. The cost of a renewal designation display, and the cost of a replacement designation display in the event it is lost or stolen, shall be twenty-five dollars (\$25.00). This subsection (5) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(6) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the finance director, the city finance director shall submit to the chief of police a copy of the application form and the permit. (1993 Code, § 5-203, as replaced by Ord. #978, Aug. 2014)

**9-205. Restrictions on peddlers, street barkers, solicitors, solicitors for charitable purposes and solicitors for subscriptions.** 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 replaced by Ord. #978, Aug. 2014)

**9-206. Restrictions on transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (as replaced by Ord. #978, Aug. 2014)

**9-207. Display of permit.** Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. In addition, each peddler, street barker and solicitor shall be required to abide by § 9-204(4) and (5). (1993 Code, § 5-304, as replaced by Ord. #978, Aug. 2014)

**9-208. Suspension or revocation of permit.** (1) Suspension by the clerk. The permit issued to any person or organization under this chapter may be suspended by the finance director 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 city council, 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 finance director 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. (1993 Code, § 5-306, as replaced by Ord. #978, Aug. 2014)

**9-209. Expiration and renewal of permit.** The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1993 Code, § 5-213, as replaced by Ord. #978, Aug. 2014)

**9-210. Violation and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation occurs shall constitute a separate offense. (as replaced by Ord. #978, Aug. 2014)

## CHAPTER 3

### TAXICABS

#### SECTION

- 9-301. Scope of chapter.
- 9-302. Definitions.
- 9-303. Character of service to be furnished.
- 9-304. Certificate of public convenience and necessity.
- 9-305. Application for certificate.
- 9-306. Hearing on certificate.
- 9-307. Issuance of certificate.
- 9-308. Transfer of certificate.
- 9-309. Suspension or revocation of certificate.
- 9-310. Indemnity bond or liability insurance required.
- 9-311. Privilege taxes to be paid.
- 9-312. Records and reports required.
- 9-313. Permit requirements for taxicab drivers.
- 9-314. Form and content of application for permit; accompanying documents.
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- 9-319. Term of permit; design.
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- 9-321. Suspension or revocation of permit.
- 9-322. Photograph of applicant for permit to be filed.
- 9-323. Inspection, fees, certificate.
- 9-324. Condition of taxicabs.
- 9-325. Signs, insignia, color scheme for taxicabs.
- 9-326. Rates prescribed; rate card to be posted.
- 9-327. Receipt for fare to be given if requested.
- 9-328. Refusal to pay legal fare.
- 9-329. Manifests to be maintained.
- 9-330. Drivers prohibited from soliciting patronage.
- 9-331. Aiding or engaging in unlawful or immoral acts prohibited.
- 9-332. Places for accepting and discharging passengers.
- 9-333. Group rides regulated.
- 9-334. Use of streets for parking regulated; private facilities required.

**9-301. Scope of chapter.** The provisions of this chapter relate to the operation and control of taxicabs in the city and to the drivers of taxicabs.



**9-302. 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 the city.

(2) "Cruising" means the driving of a taxicab on the streets, alleys, or public places of the city in search of or soliciting prospective passengers for hire.

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

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

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

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

(7) "Senior citizen" means any passenger who is sixty-two (62) years old or older.

(8) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than eight (8) persons, and not operated on a fixed route.

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

(10) "Waiting time" means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act, or fault of a passenger or passengers.

**9-303. Character of service to be furnished.** All persons engaged in the taxicab business in the city operating under the provisions of this chapter shall render an overall 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 it open twenty four (24) hours a day for the purpose of receiving calls and dispatching cabs, unless a lesser time is agreed to by the city council. They shall answer all calls received by them for services inside the city as soon as they can do so and if the services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor.

Any holder who refuses to accept a call anywhere in the city at any time when the holder has available cabs, or who fails or refuses to give overall service shall be deemed a violator of this chapter and the certificate granted to the holder shall be revoked at the discretion of the city council.

**9-304. Certificate of public convenience and necessity.** It shall be unlawful for any person to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the city council.

**9-305. Application for certificate.** An application for a certificate of public convenience and necessity shall be filed with the city council upon forms provided by the finance director's office, shall be verified under oath, and shall furnish the following information:

- (1) Name, address. The name and address of the applicant.
- (2) Financial status. 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) Experience. The experience of the applicant in the transportation of passengers.
- (4) Necessity. Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
- (5) Vehicles, facilities. The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) Color scheme insignia. The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (7) Additional information. Such further information as the city council may require.

**9-306. Hearing on certificate.** Upon the filing of an application for a certificate of public convenience and necessity, the finance director 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 been heretofore issued. Due notice shall also be given the general public by posting a notice of the hearing in the official city newspaper. Any interested person may file with the city council a memorandum in support of or in opposition to the issuance of a certificate.

**9-307. Issuance of certificate.** (1) Findings. If the city council finds that further taxicab service in the city is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this chapter and other rules promulgated by the city council, then the city council 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.

(2) Matters to be considered. 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.

**9-308. Transfer of certificate.** No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the city council.

**9-309. Suspension or revocation of certificate.** (1) Grounds. A certificate issued under the provisions of this chapter may be revoked or suspended by the city council if the holder thereof has violated any of the provisions of this chapter, has discontinued operations for more than sixty (60) days, or has violated any ordinances of the city, law of the United States, or of the State of Tennessee, the violation of which unfavorably reflects on the fitness of the holder to offer public transportation.

(2) Notice, hearing. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard at the next regularly scheduled meeting of the city council.

**9-310. Indemnity bond or liability insurance required.** (1) Bond. No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect an indemnity bond for each vehicle authorized in an amount established by resolution of the city council. The bond or bonds shall inure to the benefit of any person who is injured or who sustains damage to property proximately caused by the negligence of a holder, his servants, or agents. Said bond or bonds shall be filed in the office of the finance director and shall have as surety thereon a surety company authorized to do business in the State of Tennessee.

(2) Liability insurance. The city council may in its discretion allow the holder to file, in lieu of a bond or bonds, a liability insurance policy issued by an insurance company authorized to do business in the State of Tennessee. The policy shall conform to the provisions of this section relating to bonds.

**9-311. Privilege taxes to be paid.** No certificate of public convenience and necessity shall be issued or continued in operation unless the holder thereof has paid the applicable privilege taxes levied by the city council.

**9-312. Records and reports required.** (1) Operating information. Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures, and such other operating information as may be required by the city council. Every holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the finance director's office.

(2) Annual reports to city business tax office. Every holder shall submit reports of receipts, expenses, and statistics of operation to the city business tax office for each calendar year, in accordance with a uniform system prescribed by the finance director. The reports shall reach the business tax office on or before the last day of August of the year following the calendar year for which the reports are prepared.

(3) Accident reports. All accidents arising from or in connection with the operation of taxicabs shall be reported within twenty four (24) hours from the time of occurrence to the police department in a form of report to be furnished by that department.

(4) Other records. It shall be mandatory for all holders to file with the finance director's office copies of all contracts, agreements, arrangements, memoranda, or other writing relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station, or other place of public gathering, whether such arrangements are made with the holder or any corporation, firm, or association with which the holder may be interested or connected.

**9-313. Permit requirements for taxicab drivers.** No person shall act as a driver of a taxicab unless he has obtained a taxicab driver's permit from the police department.

**9-314. Form and content of application for permit; accompanying documents.** (1) Application. Taxicab drivers' permits shall be applied for in writing on such form as the chief of police may prescribe. The application shall show proof of the applicant's state class D license with an F endorsement; what experience he has had in driving motor vehicles; whether the applicant has been convicted of violating any motor vehicle, traffic, or criminal law of the city or state or of any other city or state, together with the particulars of all such convictions; and such other information as the chief of police may require.

(2) Accompanying documents. Each applicant shall be accompanied by at least two (2) recent photographs of the applicant of such size and design as designated by the chief of police; a certificate from a reputable physician of the city showing that the applicant is not disabled by reason of defects in his sight, hearing, body, or limbs from safely operating a motor vehicle; and certificates from at least three (3) reputable persons personally acquainted with the applicant showing him to be a person of good moral character.

**9-315. Fee for permit.** No permit or renewal of a permit to drive a taxicab shall be issued until the applicant therefor has first paid to the police department a fee of fifteen dollars (\$15.00).

**9-316. Investigation of application for permit.** Except on an application for renewal, before a taxicab driver's permit is issued, the chief of

police shall investigate the statements made in the application and shall determine whether the applicant complies with this chapter and is entitled to a permit.

**9-317. Persons ineligible for permits.** No taxicab driver's permit shall be issued to anyone who has been convicted of any offense or crime involving moral turpitude or who, in the opinion of the chief of police, is otherwise not physically or morally fit to drive a taxicab in the city. No permit shall be issued to anyone less than eighteen (18) years old.

**9-318. Issuance of permit.** The chief of police shall issue a taxicab driver permit to any applicant therefor who complies with this chapter and who under its provisions is entitled to the permit. Any applicant refused a permit or permit renewal may request an appeal to the city manager, who upon review of the matter shall decide whether said permit should be issued.

**9-319. Term of permit; design.** (1) A taxicab driver's permit shall be issued for a period of not more than one (1) year and shall continue in effect only through December 31st of the year within which it is issued, except that during December of any year, permits may be issued to be effective through December 31st of the next year. No pro-ration of the fee is allowed.

(2) Taxicab drivers' permits shall be of such size and design as the chief of police may prescribe. However, each permit shall bear on its face a photograph of the applicant, the number of his permit, its expiration date, and such other information as the chief of police may direct.

**9-320. Display and illumination of permit.** The permit of each taxicab driver shall be kept prominently displayed and visible to the passengers of the taxicab operated by him. After sundown, it shall be illuminated by a suitable light so as to remain plainly visible to the passengers at all times.

**9-321. Suspension or revocation of permit.** (1) Grounds. Any permit granted to any taxicab driver under the terms of this chapter may be suspended or revoked by the chief of police for the driver's failure or refusal to comply with any of the provisions of this chapter. The permit may also be revoked if the taxicab driver's state class D license with an F endorsement is revoked or expires; if he willfully or persistently violates any city ordinance or state or federal law; or if he becomes physically or morally unfit to operate a taxicab.

(2) Conditions precedent to revocation. A permit may not be revoked unless the taxicab driver has received notice of the proposed revocation and reasons therefor at least forty-eight (48) hours prior to the hearing, and has had an opportunity to show cause why his permit should not be revoked.

(3) Appeal of revocation. Any taxicab driver whose license is revoked under this section may request an appeal to the city manager, who upon review of the matter shall decide whether said permit should be revoked or reinstated.

**9-322. Photograph of applicant for permit to be filed.** One photograph of each applicant for a taxicab driver's permit shall be retained in the files of the police department with the application. The files shall be kept in a readily accessible place at the police department.

**9-323. Inspections, fees, certificates.** (1) Time, place, fee. To insure compliance with the provisions of this chapter all taxicabs shall be inspected before they can be placed in service as a taxicab. Thereafter, they shall be regularly inspected semiannually in January and July by the city's fleet manager. An inspection fee of twenty dollars (\$20.00) per vehicle shall be charged for each inspection. The times and places for such inspections shall be prescribed by the fleet manager who shall also see that notice thereof is either published in the official city newspaper or given individually to each holder of a certificate of public convenience and necessity.

(2) Certification of inspection. A certificate of inspection shall be issued and prominently displayed on the windshield of each taxicab found to comply with the provisions of this chapter. No holder of a certificate of public convenience and necessity shall allow a taxicab to be operated without a certificate of inspection.

(3) Additional inspections. In addition to the initial inspection and regular semiannual inspections for which the fees are to be charged, taxicabs shall be inspected without cost to the holders at such other times and places as the chief of police or fleet manager may reasonably direct.

(4) Noncompliance with inspection requirements. When any taxicab is found not to conform to the requirements of this chapter its certificate of inspection shall be revoked. Such taxicab shall not thereafter be operated in the city until it has been put in proper condition, an extra ten dollar (\$10.00) inspection fee paid, and a new certificate of inspection obtained following re-inspection by the fleet manager.

**9-324. Condition of taxicabs.** All taxicabs operated in the city shall be kept in a clean and sanitary condition inside and out. They shall also be kept in such mechanical condition as is reasonably necessary to provide for their satisfactory operation and the safety of the public. They shall be equipped with such lights, brakes and other mechanical equipment and devices as are required by state law and this code for motor vehicles generally.

**9-325. Signs, insignia, color scheme for taxicabs.** (1) Each taxicab shall bear on the outside of each rear door, in painted letters not less than two

inches (2") in height, the name of the owner, and in addition may bear an identifying design approved by the city council.

(2) No vehicle covered by the terms of this chapter shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon in the opinion of the city council conflicts with or imitates any color scheme, identifying design, monogram, or insignia used on a vehicle or vehicles already operating under this chapter in such a manner as to be misleading or tend to deceive or defraud the public. If after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be in the opinion of the city council in conflict with or in imitation of any color scheme, identifying design, monogram, or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering the taxicab or taxicabs shall be suspended or revoked.

**9-326. Rates prescribed; rate card to be posted.** (1) No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than is prescribed by resolution of the city council. Taxicabs must use the most direct route possible from the point of passenger entry to the passenger's destination point. When more than one passenger employs the same taxicab, no charge shall be made for the additional passengers except when they ride beyond the previous passenger's destination and then only for the additional distance traveled. In establishing the rates, the city council may authorize a discount of up to twenty percent (20%) from the regular rates, fees, and charges for senior citizens.

(2) Every taxicab operated under this chapter shall have a rate card issued by the business tax office setting forth the authorized maximum rates of fare which can be charged. Said card shall be displayed in such manner as to be in full view of all passengers and shall clearly denote if any senior citizen discount rates are in effect.

**9-327. Receipt for fare to be given if requested.** The driver of any taxicab shall upon demand by any passenger tender to the passenger a receipt for the amount charged.

**9-328. Refusal to pay legal fare.** It shall be unlawful for any person to refuse to pay the legal fare for 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.

**9-329. Manifests to be maintained.** (1) Form contents. Every driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare. All completed manifests shall be returned to the owner by the driver at

the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the finance director's office.

(2) Preservation. Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year, and the manifests shall be available to the police department and the finance director's office.

**9-330. Drivers prohibited from soliciting patronage.** No driver shall solicit passengers for a taxicab nor cruise in search of passengers. Neither shall any driver annoy any person, obstruct the movement of any person, or follow any person for the purpose of soliciting his patronage.

**9-331. Aiding or engaging in unlawful or immoral acts prohibited.** No driver shall help, aid, assist, use, otherwise engage, or knowingly allow his taxicab to be used in the commission of or in furtherance of any unlawful or immoral act, purpose, or design.

**9-332. Places for accepting and discharging passengers.** 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. Upon one-way streets, passengers may be discharged on either side of the road.

**9-333. Group rides regulated.** Whenever one passenger has lawfully and properly entered or engaged a taxicab, no additional passenger shall be accepted without the consent of the first passenger. The first passenger has the right to require the additional passengers to pay one-half the cost for the shared mileage on this trip. In any event sufficient room must be left for the driver at all times to have free, comfortable, and easy control of the operation of the taxicab. Not more than two (2) passengers shall be permitted to sit upon the same seat occupied by the driver of any taxicab.

**9-334. Use of streets for parking regulated; private facilities required.** All holders of a certificate of public convenience and necessity are required to provide private facilities for the parking of their taxicabs when the taxicabs are not engaged or lawfully parked.



## CHAPTER 4

### POOL ROOMS<sup>1</sup>

#### SECTION

- 9-401. Prohibited in residential areas.
- 9-402. Hours of operation regulated.
- 9-403. Minors to be kept out; exception.
- 9-404. Gambling, etc. not to be allowed.
- 9-405. Definition of terms.
- 9-406. License required.
- 9-407. Fee to be paid by applicant.
- 9-408. License transferability; change of business location.
- 9-409. License revocation.
- 9-410. Posting of license.

**9-401. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1993 Code, § 5-501)

**9-402. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1993 Code, § 5-502)

**9-403. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without on each occasion first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1993 Code, § 5-503)

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<sup>1</sup>Municipal reference  
Privilege tax: Title 5.

**9-404. Gambling, etc. not to be allowed.** It shall be unlawful for any person operating, conducting or maintaining any place where pool tables, billiard tables, or mechanical amusement devices as that term is hereinafter defined in § 9-405 of this chapter are kept for public use or hire or for the use of members in private clubs, to permit any gambling as defined in the statutes of the State of Tennessee (which are adopted herein by reference) or other unlawful or immoral conduct on such premises. (1993 Code, § 5-504)

**9-405. Definition of terms.** The term "pool table or billiard table" whenever used in this chapter shall be deemed to include any table at which any game of billiards, pool, or other games requiring the use of cues and balls is played. The term "mechanical amusement device" whenever used in this chapter shall be deemed to include any machine, which, upon the insertion of a coin, slug, token, plate or disk may be operated for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines, electronic game machines, and all games, operations, or other transactions similar thereto under whatever name they may be designated, but shall not include jukeboxes. (1993 Code, § 5-505)

**9-406. License required.** Any person who keeps for operation in the city (except for private use in his home) any pool table, billiard table, or mechanical amusement device as defined herein shall obtain an annual license for each such pool table, billiard table or mechanical amusement device from the city manager. (1993 Code, § 5-506, modified)

**9-407. Fee to be paid by applicant.** Every applicant, before being granted a license shall pay the following annual fee for operating or maintaining for operation each such pool table, billiard table or mechanical amusement device:

- (1) Pool tables and billiard tables, twenty-five dollars (\$25.00) per table.
  - (2) Mechanical amusement devices, fifteen dollars (\$15.00) per device.
- (1993 Code, § 5-507)

**9-408. License transferability; change of business location.**

(1) The license required under this chapter may be transferred from one pool table, billiard table or mechanical amusement device to another similar such table or device, but not more than one such pool table, billiard table or mechanical amusement device shall be operated under one license at the same time.

(2) If a licensee moves his place of business to another location within the city, the license may be transferred to such new location upon application to the city manager, giving the street and number of the new location, providing

said new location is in compliance with the code of the City of East Ridge, Tennessee. (1993 Code, § 5-508, modified)

**9-409. License revocation.** In addition to any other penalty provided by law, any license issued under this chapter may be revoked by the city council if the licensee, directly or indirectly, permits the operation thereunder of any such pool table, billiard table or mechanical amusement device contrary to the provisions of this chapter or the laws of the state or the ordinance of the city. The city council shall take such action only after five (5) days written notice to the licensee specifying the violation with which he is charged, and a hearing at which the licensee or his attorney may submit evidence in his defense. (1993 Code, § 5-509, modified)

**9-410. Posting of license.** Each license shall be posted permanently and conspicuously at the location of the pool table, billiard table or mechanical amusement device on the premises wherein such pool table, billiard table or device is licensed to be operated or maintained for operation. (1993 Code, § 5-510)

## CHAPTER 5

### WRECKING AND TOWING SERVICE

#### SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. District wrecker classifications.
- 9-504. Permit required.
- 9-505. City manager.
- 9-506. Application.
- 9-507. Fees; expiration date and renewal.
- 9-508. Investigation of applicant.
- 9-509. Issuance of license.
- 9-510. Revocation.
- 9-511. Required equipment and standards.
- 9-512. Required storage facilities and procedures for district wreckers.
- 9-513. Notification required for vehicles held over thirty days.
- 9-514. Insurance.
- 9-515. Billing and charges for district wreckers.
- 9-516. Wrecker zones for district wreckers.
- 9-517. Regulations for district wreckers.
- 9-518. Vehicles to be towed to place designated by owner; coercion at scene of an accident prohibited.
- 9-519. Wreckers to go to scene of accident on call of owner or police only.
- 9-520. Solicitation of towing work by operator, etc., of district wrecker prohibited.
- 9-521. Emergency towing and storage.
- 9-522. Fleet service contracts.
- 9-523. Severability.

**9-501. Purpose.** The purpose of this chapter is to establish regulations and procedures to license district wrecker operators who apply to remove wrecked or disabled vehicles at the request or call of the city police department or other departments of the city and to establish a rotation call list procedure for such operators. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-502. Definitions.** For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "District wrecker." All wrecker or towing operators licensed by the city under this chapter who qualify to be placed on the rotation call list to respond to requests for towing of vehicles made by the city as of the effective

date of this chapter or later added as the needs of the city require it. As of the effective date of this chapter, there are three (3) district wrecker operators in the city, which is sufficient for the needs of the city. Of those three (3), one (1) district operator has a C Class wrecker which meets the needs of the city. Any district wrecker licensed as of the date of this chapter may add a C Class wrecker and be automatically added to the C Class district rotation. At no time may a district wrecker operator respond to a district wrecker call wherein a C Class wrecker is required as determined by the City of East Ridge or other agency if that district wrecker operator does not own a C Class wrecker as that term is defined in this chapter.

(2) "Inside storage." The storing of a motor vehicle within an enclosed building being used by the wrecker operator at his/her place of business.

(3) "Normal business hours." The hours from 8:00 A.M. to 5:00 P.M. except Saturdays, Sundays, and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(4) "Outside storage." The storing of a motor vehicle within a lot or premises being used by the wrecker or towing operator as a place of business, but not inside storage as described above.

(5) "Wrecker inspector." That officer or employee of the city police department designated by the police chief as the person responsible for receiving applications, conducting investigations of proposed wrecker operators.

(6) "Wrecker or towing operator." Any person engaged in the business of, or offering the services of a wrecker or towing service to remove wrecked or disabled vehicles at the request or call of the city, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-503. District wrecker classifications.** (1) For purposes of this chapter, district wreckers are classified into three (3) classes, Class A, Class B and Class C with minimum requirements for each classification as follows:

(a) Class A. For towing passenger cars, pick-up trucks, small trailers, etc.

CHASSIS:

- (i) Minimum GVWR 14,500 lbs.;
- (ii) Dual rear wheels;
  - (A) Minimum 7.50 X 16
  - (B) Minimum 225 X 16
  - (C) Minimum tread 8/32;
- (iii) Minimum 60 inch cab to axle;
- (iv) Present a professional outward appearance; and
- (v) Fully functional drivers and passenger side mirrors.

WRECKER:

- (i) Manufactured body, boom, and underlift;
  - (ii) Minimum 60 inch cab to axle;
  - (iii) Hydraulic recovery boom
    - (A) Minimum capacity 8 ton retracted
    - (B) Minimum capacity 4,000 LD extended
    - (C) Hydraulic elevation
    - (D) Hydraulic extension;
  - (iv) Dual hydraulic 8,000 lbs. winches
    - (A) Direct mount winch motors
    - (B) 6 X 19 3/8 inch cable
    - (C) 100 feet minimum of cable from winch
    - (D) Swidged thimbles (no clamps)
  - (v) Hydraulic wheel lift
    - (A) Hydraulic elevation
    - (B) Hydraulic extension
    - (C) 3,500 lb capacity at full extension
    - (D) 7,500 lb tow rating
    - (E) Sound and operational tire restraint straps
    - (F) Safety chains OEM specs or %70 grade 5/16 inch
  - (vi) Operational dollies;
  - (vii) Tow sling w/J hooks and chains
    - (A) Sling straps in sound working condition
    - (B) J hooks and chain in sound WO
  - (viii) Tow lights w/cord (operational)
  - (ix) Rotating light bar (fully operational)
  - (x) Work lights (operational)
  - (xi) Trailer ball attachment
  - (xii) Attachment or carrying straps for motorcycle
  - (xiii) Safety package
    - (A) 5 lb fire extinguisher (charged and operational)
    - (B) Shovel
    - (C) Broom
    - (D) Bucket
    - (E) 2 3/8 inch X 10 ft recovery chains (not "J" hooks sling chains) minimum
    - (F) 5 lbs oil dry
    - (G) First aid kit.
- (b) Class B. For towing medium size trucks, trailers, etc.  
CHASSIS:
- (i) Minimum GVWR 25,500 lbs
  - (ii) Dual rear wheel
    - (A) 8.25 X 22.5
    - (B) 265R X 22.5

- (C) Minimum 8/32 tread all six tires
- (iii) Minimum cab to axle 108 inches
- (iv) Air brakes
- (v) Professional outward appearance
- (vi) Functional drivers/passenger side mirrors

## WRECKER:

- (i) Manufactured body, boom, and wheellift
- (ii) Boom capacity 16 ton
- (iii) Hydraulically powered boom
  - (A) Hydraulic elevation
  - (B) Hydraulic extension
- (iv) Dual 16,000 lb hydraulic winches
  - (A) Direct mount hydraulic motor
  - (B) 6 X 19 1/2 inch cable
  - (C) 150 feet of cable from the winch
  - (D) Swidged thimbles (no clamps)
- (v) Hydraulic wheellift
  - (A) Power elevation
  - (B) Power extension
  - (C) 8,000 lb capacity full extension
  - (D) 32,000 lb tow rating
  - (E) 1/2 inch OEM or T-70 safety chain permanently attached
- (vi) Medium duty truck hitch w/ 1/2 in. chassis
- (vii) Rear jacks or spades (wheellift not acceptable)
- (viii) Tow lights or bar w/cord (operational)
- (ix) Rotating light bar (fully operational)
- (x) Work lights
  - (A) Upper work lights
  - (B) Lower hook up lights
  - (C) All lights must be operational
- (xi) Tow ball and/or attachment
- (xii) Safety package
  - (A) 5 lb fire extinguisher
  - (B) Shovel
  - (C) Broom
  - (D) Pry bar
  - (E) Bucket
  - (F) 5 lbs oil dry
  - (G) Pair 3/8 in. X 10 ft. chains minimum
  - (H) Pair 1/2 in. X 10 ft. chains minimum
  - (I) First aid kit

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

## CHASSIS:

- (i) Minimum GVWR 50,000 lbs.
- (ii) Tandem axle
  - (A) 10 X 22.5 minimum
  - (B) 285R X 22.5 minimum
  - (C) 8/32 Tread minimum all ten (10) tires
- (iii) Minimum 156 inch C.B.
- (iv) Air brake
- (v) Air service lines
- (vi) Professional outward appearance
- (vii) Functional driver/passenger side mirrors

## WRECKER:

- (i) Manufactured body, boom, and underlift
- (ii) Boom capacity of 25 ton
- (iii) Hydraulically powered boom
  - (A) Power elevation
  - (B) Power extension
- (iv) Dual hydraulic 25,000 lb winches
  - (A) Direct mount winch motors
  - (B) 6 X 19 5/8 inch cable minimum
  - (C) 200 ft. minimum from winch
  - (D) Swidged thimbles (no clamps)
- (v) Hydraulically powered underlift
  - (A) Power elevation
  - (B) Power extension
  - (C) 12,000 lb capacity full extension
  - (D) 80,000 lb tow rating
  - (E) 5/8 OEM or A-80 safety chain
- (vi) Truck hitches w/chains and/or underlift attachment
- (vii) Hydraulic rear jacks or spades
- (viii) Tow bar w/cord
- (ix) Rotating light bar
- (x) Air and service lines
- (xi) Work lights
  - (A) Upper work lights
  - (B) Lower/hookup lights
  - (C) All lights operational
- (xii) Tow ball and pintal hook attachment
- (xiii) Safety package
  - (A) 5 lb fire extinguisher
  - (B) Broom
  - (C) Shovel
  - (D) Pry bar
  - (E) Bucket
  - (F) 5 lbs. oil dry



- (G) 2 pair of T70 X 10 ft minimum chain
- (H) 1 pair of A80 X 10 ft minimum chain
- (I) First aid kit. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-504. Permit required.** No person shall engage in the business of, or offer the services of, a district wrecker, whereby motor vehicles are, or may be towed or otherwise moved from one place to another by the use of a motor vehicle adapted for that purpose without having been issued a permit as provided by this chapter. Permits shall be issued for Class A through Class C wreckers as the vehicles meet the requirements of § 9-503. Additionally, permits shall be granted for "district wreckers" as provided herein. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-505. City manager.** (1) The city manager shall approve, issue, revoke or suspend licenses consistent with the provisions of this chapter.

(2) The city manager shall administer the provisions of this chapter through the police department and the inspector shall be the police chief or his/her designee.

(3) The action of the city manager in granting or refusing a license or in revoking or suspending a license shall be final, except as such action shall be appealed within five (5) business days to the city council by filing a written notice of appeal with the city attorney at his office. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-506. Application.** Any person desiring to obtain a district wrecker permit shall file with the wrecker inspector an application setting out, among other things, the following:

(1) Name and address of the person desiring the license.

(2) The location and full description of all property to be utilized in connection with the business, including tax parcel numbers and zoning of the property.

(3) The number of wreckers or towing cars owned or available for use by the applicant and a full description of the wreckers sufficient to determine a proper classification under § 9-503.

(4) A statement that all wreckers are properly equipped for the applicable classification set forth in § 9-503 and contain the required equipment set out in § 9-503, and that all wreckers meet applicable state and federal regulations.

(5) A statement that the wrecker or towing operator will accept responsibility for any and all personal property left in towed or stored vehicles.

(6) A statement setting forth and describing available space including inside storage, if available, for properly accommodating and protecting all

disabled motor vehicles to be towed or otherwise removed from the place where they had been disabled.

(7) A statement that the applicant will provide twenty-four (24) hour service, including holidays, and that he/she will have a qualified operator on duty at all times for each district wrecker location licensed hereunder.

(8) A statement that the wrecker operator will not release any vehicles impounded by the city without authorization by the police department, that a file will be maintained on all vehicle release forms and that this file will be made available for police inspection upon request.

(9) Information to show that the applicant has had at least three (3) year's experience as a wrecker operator.

(10) An assurance that the applicant will maintain a minimum of one (1) properly equipped and operable wrecker throughout the year for which application is being made.

(11) Proof of insurance in accordance with § 9-514.

(12) Information to show that the applicant has been in the wrecker business as a wrecker operator in the City of East Ridge for a period of three (3) years. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-507. Fees; expiration date and renewal.** Any new applicant for a district wrecker permit under this chapter, except those who have been heretofore licensed under ordinances and procedures of the city in effect on the effective date of this chapter shall be charged an application and investigation fee of two hundred dollars (\$200.00) to cover the expense of investigating the applicant, the place of business, and the wreckers and equipment. The initial applications and permits hereunder for currently licensed wrecker operators shall be without an investigation fee other than the fifty dollar (\$50.00) annual fee. If an applicant changes his/her business location, or adds or substitutes a new or different wrecker, there shall be a supplemental investigation fee of one hundred dollars (\$100.00). Additionally, there shall be an annual license fee of fifty dollars (\$50.00) per wrecker licensed hereunder which shall be collected by the finance director upon granting an approved license or renewal license. All licenses shall expire on December 31st and applications for renewal shall be filed by November 30th of each year. Late applications for renewal will be considered in due course, but the applicant will not be privileged to operate such wreckers from December 31st until the renewal is approved by the wrecker board. (Ord. #677, March 1999, as amended by Ord. #693, Nov. 1999, and replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-508. Investigation of applicant.** The wrecker inspector shall investigate or cause to be investigated each applicant for a district wrecker permit under this chapter to determine whether the applicant has the necessary equipment and facilities to qualify as a district wrecker operator, and, if the

applicant is qualified. The wrecker inspector shall report his/her findings to the police chief. The police chief shall direct or make such further investigation as he/she deems proper and grant or refuse a permit based upon other things the necessity and needs of additional district wrecker operators within the city. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-509. Issuance of license.** Every person qualified under this chapter shall be issued a permit by the finance director for each district wrecker approved by the city manager or his/her designee, which permit shall at all times be kept with each wrecker. The permit shall bear a notation "district wrecker." Such permit shall have printed thereon the year for which it is valid. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-510. Revocation.** (1) The city manager or his/her designee shall suspend or revoke the permit of any permittee on any of the following grounds:

(a) If the permit was procured by fraudulent conduct or false statement of a material fact or a material fact concerning the applicant which was not disclosed at the time of his making application that would have constituted just cause for refusing to issue the license.

(b) Failure of a district wrecker permittee to have an operable and properly equipped wrecker and qualified operator on duty at all times or to promptly respond to police calls.

(c) If the district wrecker permittee has knowingly overcharged or consistently overcharges.

(d) A violation of any provision of this chapter.

(e) If a district wrecker does not meet all applicable state and federal regulations.

(f) The police chief may suspend or revoke a permit in his/her discretion for due cause not specified herein.

(2) Such suspension or revocation shall terminate all authority and permission granted by such district wrecker permit to the licensee. Any person whose permit has been revoked shall not be eligible to again apply for a district wrecker permit for a period of one (1) year from the date of such revocation. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-511. Required equipment and standards.** In addition to the equipment required under the applicable district wrecker classifications set forth in § 9-504, all district wreckers shall have and maintain additional equipment and standards as follows:

(1) The following additional equipment is required:

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

- (b) Flood lights on hoist to illuminate scene at night;
  - (c) One (1) shovel;
  - (d) A twenty (20) pound Class ABC Underwriter Laboratory approved fire extinguisher, a two and seven-tenths (2.7) pound Halon 1301/1211 fire extinguisher, or equivalent fire extinguisher adequately charged.
- (2) The appearance of all district wreckers shall be reasonably good with equipment painted.
- (3) All district wreckers shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides. Such lettering shall be at least three inches (3") high. Magnetic signs will not be permitted as a substitute.
- (4) It is the responsibility of the district wrecker to have equipment for removing glass and other debris from the accident scene and to remove such debris from the highway. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-512. Required storage facilities and procedures for district wreckers.** District wreckers provide proper storage facilities and procedures as follows:

- (1) The wrecker operator shall provide a properly zoned (or lawful nonconforming use) fenced lot or building for proper and safe storage. Such lot for storage shall be located on the same property as the wrecker service facility or in close enough proximity to the wrecker service facility to permit the operator to visually observe the storage facility and to prevent vandalism or other loss or damage to vehicles and their contents. The fence shall be a minimum of six feet (6') high, constructed of chain-link fencing, lumber, or other material which will serve as a significant deterrent to unauthorized entry. The fencing shall be equipped with lockable gates, which shall be locked at all times when the storage facility is unattended. There shall be room to store at least ten (10) cars within the fenced lot. Class C operators shall additionally have room to store a minimum of one (1) tractor and trailer within the fenced lot.
- (2) Records of the vehicles towed and charges of tows from calls received from the city rotation list shall be maintained for at least one (1) year and shall be open for inspection by the city and the owner of any vehicle towed or his/her agent.
- (3) All vehicles towed under the rotation call list provided for by this chapter shall be stored inside a building or inside the fenced storage facility described above unless authorization to do otherwise is obtained from the vehicle's owner.
- (4) The wrecker service shall notify the registered owners and lienholders, within fifteen (15) days after any vehicle is towed pursuant to a request by any officer or official of the City of East Ridge, of the location of the stored vehicles and the costs of securing possession of the towed and stored

vehicle. Any wrecker service that fails to comply with the notice provisions of this section shall only be entitled to receive the costs of towing the vehicle and the costs for storing the vehicle during the fifteen (15) day notice period. The City of East Ridge Police Department is hereby authorized to provide, upon written request, to the wrecker service company registration records on stored vehicles for the purposes of issuing the notice required by this section. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-513. Notification required for vehicles held over thirty days.**

The state department of revenue will be notified of all vehicles held over thirty (30) days, except when arrangements for longer storage are made by the owner, as required by Tennessee Code Annotated, § 55-16-101. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-514. Insurance.** Before the police chief shall approve a district wrecker permit under this chapter, including a renewal license, the applicant shall deposit with the wrecker inspector a certificate of an underwriter that the applicant has in force a policy or policies of insurance issued by an insurance company authorized to transact business in the state with the minimum insurance coverage required by applicable state and federal regulations and as follows:

(1) A general liability policy covering the operation of applicant's own business, equipment or vehicles for bodily injuries in the amount of two hundred fifty thousand dollars (\$250,000.00) for any one (1) person killed or injured, six hundred thousand dollars (\$600,000.00) for more than one (1) person injured or killed in any one (1) accident and seventy-five thousand dollars (\$75,000.00) for all damage arising from injury to or destruction of property. All such policies shall include cargo or "on-hook" riders or otherwise protect the operator against such liability. All such policies shall include garage keeper's liability riders or otherwise protect the operator against liability for damage to towed or wrecked cars kept on the premises arising from fire, theft, or other casualty.

(2) All applicants shall provide a copy of such insurance policies with their application and shall provide copies of all renewals thereof to the wrecker inspector. The insurance policy shall be subject to approval by the city attorney, or his designees, as to the minimum requirements contained herein. A certificate of insurance shall be provided which contains an endorsement providing a minimum of ten (10) working days' notice in the event of a cancellation of the policy or an expiration of a policy without a copy of a renewal being provided to the wrecker inspector, any license issued hereunder shall be suspended until a new policy and certificate of insurance are provided. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-515. Billing and charges for district wreckers.** All applicants for a district wrecker permit shall be subject to regulation as to billing and charges for any call from the police department referred to the district wrecker under the call rotation system as follows:

(1) The owner of a wrecker or towing car shall have prepared billheads with his/her name and the address of his/her place of business printed thereon. If requested by the owner of the disabled vehicle, the operator of the wrecker, before towing a disabled vehicle, the operator of the wrecker, before towing a disabled vehicle away, shall prepare a bill on his/her billhead form in duplicate, the original of which shall be given to the owner of the disabled vehicle or his/her authorized representative. This bill shall contain the following information:

(a) Name and address of person engaging towing car.

(b) State license number of disabled vehicle.

(c) Storage rates per day or part thereof.

(d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

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

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

(4) The maximum charge for district wrecker calls shall be the same as the State of Tennessee Department of Safety charges, as the same may be amended from time to time.

All Class C operators must keep on file at their location, for a period of one (1) year, video documentation of the scene, and the conditions for which all additional charges are being billed pursuant to this chapter. Video documentation shall consist of videotape, film, photographs, or other media which accurately depicts the scene and conditions as they actually appeared at the time of recovery.

No storage fee shall be charged by any district wrecker class if the vehicle is reclaimed by the owner within the first eight (8) hours. For every wrecker class, if more than one (1) owner or employee per wrecker is of necessity assigned to assist in the recovery of the disabled vehicle, the normal hourly wage of the additional employee's adjusted fringe benefits can be made as an additional charge. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-516. Wrecker zones for district wreckers.** The entire City of East Ridge shall be considered one (1) zone. Any applicant for a district wrecker shall have its offices and storage facilities within the city. Police calls will be placed only to operators with district licenses and will be placed from a separate rotating call list for Class A, Class B and Class C wreckers. Class B wreckers may be listed on both the "A" and "B" class list upon request. Class C wreckers may be listed on both Class "C" and Class "B" upon request. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-517. Regulations for district wreckers.** A district wrecker permittee shall follow these procedures:

(1) No district wrecker permittee shall operate his/her business jointly with any other district wrecker permittee. Joint operation shall include common or joint use of any real or personal property as specified more fully in paragraph (19) below, or joint use of any employees as specified more fully in paragraph (20) below.

(2) No permittee shall directly or indirectly operate more than one (1) district wrecker. Indirect operation shall include common or joint use of any real or personal property as specified more fully in subsection (19) below, or joint use of any employees as specified more fully in subsection (20) below.

(3) All permittees are expected to be familiar and comply with the traffic laws of the city and the state, and abide by all provisions of this chapter.

(4) Permittees will be familiar with and abide by all provisions of this chapter.

(5) No permittee shall charge unreasonable rates for services rendered.

(6) Permittees shall be available for twenty-four (24) hour service with vehicles in proper operating condition and have a qualified operator on duty.

(7) Permittees shall be available for twenty-four (24) hour service with vehicles in proper operating condition and have a qualified operator on duty.

(8) Permittees shall have a telephone number prominently posted for after-hours release of vehicles. The permittees may make an additional charge for releasing a vehicle other than during normal business hours except when the location is otherwise open for business.

(9) The police department may direct that a police impoundment be towed to a city lot at no additional charge.

(10) Amber lights are to be used in the immediate vicinity of a wreck and while towing a vehicle.

(11) All operators shall respond to a wreck within a reasonable time after being called, and except for exigent or unusual circumstances, a response must be made within thirty (30) minutes after the dispatch request is made to the wrecker operator. If the wrecker is engaged elsewhere, or for any reason the wrecker operator cannot reasonably expect to respond within thirty (30) minutes, it shall be the duty of the wrecker operator to so advise the police department and decline to accept the call whereupon the next wrecker operator

on rotation shall be called. Class C wreckers shall be granted an additional fifteen (15) minutes to respond to a tow for a large truck, road tractor and trailers.

(12) No licensee shall refer or delegate police calls to other wrecker companies.

(13) No answering service, paging service or similar service or procedure may be used to forward a call to an owner or employee of the wrecker service during normal business hours. The operator may provide for an after-hours number which shall be provided to the wrecker inspector.

(14) The first wrecker operator at the scene shall tow the vehicle causing the greatest hazard as directed by the investigating police officer.

(15) No repairs or other additional services shall be performed except on request of the owner.

(16) An operator may accept a dispatch of more than one (1) wrecker only if qualified wreckers and operators are available within the time limits specified above.

(17) All district wrecker permittees shall file with the wrecker inspector a photocopy of a current operator's license for each employee authorized to operate a wrecker. The photocopy of any new operator's license shall be filed within ten (10) days following employment or renewal of the operator's license.

(18) No district wrecker permittee shall jointly use any real or personal property with any other district wrecker permittees except as provided herein. Real property shall be considered to be jointly used if it is used in any manner for the use of storage of any wrecker, wrecker equipment, or wrecked and disabled vehicles by two (2) or more permittees. Separate recorded parcels of real property shall be deemed to be one (1) parcel of real property for purposes of this chapter if:

(a) The parcels have any common boundaries;

(b) The boundaries of the parcels are separated only by a public street, alley, or private driveway; or

(c) A common parcel of property as described above was subdivided, sold, leased, rented, or in any manner divided or conveyed on or after the effective date of the chapter by the owner of such property to create separate parcels.

No district wrecker permittee shall use any wrecker, equipment or other personal property owned by another district wrecker permittee, excluding bona-fide lease or rental contracts for a term of thirty (30) days or more except upon a written lease or rental agreement supported by fair market consideration. A copy of any such lease or rental contract shall be filed with the wrecker inspector within thirty (30) days of the vehicle first being used on district wrecker calls. District wrecker permits issued prior to September 1, 1989, may be renewed without regard to the requirement for separate recorded parcels of real property and operated notwithstanding the provisions of paragraphs (1) and (2) of this section.



(19) Each district wrecker operator shall regularly employ at least two (2) primary operators for each location permitted under this chapter, who shall be employed forty (40) hours per week during normal working hours or a normal work week, if the permittee's normal work week for employees is less than forty (40) hours. A photocopy of the primary operator's Commercial Driver's License (CDL) or commercial motor vehicle license shall be submitted to the wrecker inspector within ten (10) days following their employment and the operator shall keep the wrecker inspector advised of any changes in employment of such operators within ten (10) days. The same person cannot be qualified to act as the primary operator for more than one (1) district wrecker permittee. Nothing herein shall prevent a primary operator of one (1) permittee to act as a part-time operator for another permittee. The owner(s) may qualify as a primary operator(s) providing that he/she regularly operates the wrecker and responds to wrecks or disabled vehicles personally during normal business hours. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-518. Vehicles to be towed to place designated by owner; coercion at scene of an accident prohibited.** The wrecker operator may tow the wrecked or disabled vehicles to the operator's place of business; provided, if the owner or agent of the wrecked or disabled vehicle pays or secures the towing charges, then the wrecker operator or crane operator shall pull the vehicle to any place within the city designated by such owner or agent. It shall be unlawful for the owner of a district wrecker, his/her agent, employee or representative at the scene of any accident to high-pressure or otherwise to coerce or insist upon any owner of a wrecked or disabled vehicle to sign a work order or agreement at the scene of the accident for any repairs to be made on such wrecked or disabled vehicle. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-519. Wreckers to go to scene of accident on call of police only.** It shall be unlawful for any district wrecker operator, or his/her agent or representative, to go to any place where an accident has occurred unless called by the police department dispatcher. In any event, the wrecker shall clear with the police dispatcher before going to the accident scene. It shall be unlawful for the owner of any district wrecker, or his/her agent or representative, to go to the place of a wreck by reason of information received by shortwave or police radio. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-520. Solicitation of towing work by operator, etc., of district wrecker prohibited.** A district wrecker operator shall not proceed to the scene of a disabled motor vehicle without having been requested or notified to do so, as provided in § 9-520 of this code. Responding to a call upon notice from gas

station attendants, taxicab drivers or unauthorized persons shall be considered a violation of this chapter; provided that, the provisions of this section shall not be operable during periods of snow emergencies proclaimed by the city. (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-521. Emergency towing and storage.** Whenever any police officer finds a vehicle standing upon any street or highway which constitutes a hazard to the safe movement of traffic along such street, or when the towing of such vehicle is otherwise permitted by this code or other applicable law, the officer shall:

- (1) Notify the police dispatcher, who shall call the district wrecker having the class of wrecker necessary.
- (2) The district wrecker shall tow the wrecker or disabled motor vehicle in the manner and procedures as provided in this chapter; and
- (3) The district wrecker operator shall be entitled to recover any unpaid charges for towing and storage in accordance with title 55, chapter 16, Tennessee Code Annotated, "Unclaimed or Abandoned Vehicles." (Ord. #677, March 1999, as replaced by Ord. #787, Dec. 2007, and Ord. #1017, Sept. 2016)

**9-522. Fleet service contracts.** (1) Owners or operators of a fleet of vehicles may apply to the wrecker inspector to have their vehicles listed with the police department for the dispatch of a particular wrecker service in lieu of having the district wrecker respond to a wreck for a disabled vehicle. To defray the cost of establishing and maintaining this system, each applicant shall pay a fee of twenty dollars (\$20.00) with the original application and an additional twenty dollar (\$20.00) fee for each amendment thereafter. Such applications shall be accepted only from owners or operators having a right to directly control the use of the vehicle, and they shall not be accepted from auto repair facilities or leasing companies other than for vehicles directly used in such businesses.

(2) If an owner or operator of a fleet of vehicles has a request on file to notify a particular wrecker service, and the police officer on the scene is so notified, he/she shall radio the dispatcher who shall notify the requested wrecker company, if the wrecker company meets the qualifications and response time set forth in this chapter to tow the type of vehicle to be towed, and to do so would not interfere with the public's health, safety or welfare. However, if the officer or dispatcher is notified of a particular wrecker service after a district wrecker operator has been dispatched, then the request for the particular wrecker service shall be denied, notwithstanding the fact that an application has been filed and the twenty dollar (\$20.00) fee paid. (as added by Ord. #787, Dec. 2007, and replaced by Ord. #1017, Sept. 2016)

**9-523. Severability.** If any provision of this chapter is determined to be unenforceable or invalid, such determination will not affect the validity of the

other provisions contained in this chapter. Failure to enforce any provision of this chapter does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this chapter at any time. (as added by Ord. #1017, Sept. 2016)

## CHAPTER 6

### REGULATION OF AMBULANCE SERVICES

#### SECTION

- 9-601. Regulatory authority.
- 9-602. Definitions.
- 9-603. Certification and license required.
- 9-604. Application for certification and license.
- 9-605. License fee.
- 9-606. Duties of license official.
- 9-607. Duties of EMS coordinator.
- 9-608. Insurance policy.
- 9-609. Transfer of license.
- 9-610. Operating requirements for ambulance services.
- 9-611. Ambulance service rotation list.
- 9-612. Enforcement and penalties.

**9-601. Regulatory authority.** Tennessee Code Annotated, § 7-61-103, authorizes the governing body of any city to license ambulance services and adopt and enforce reasonable regulations to control ambulance services to protect the public health and welfare. (Ord. #600, Oct. 1995)

**9-602. Definitions.** (1) "Ambulance" means any privately or publicly owned land or air vehicle that is especially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for transportation for persons who are sick, injured, wounded, or otherwise incapacitated, helpless, dead or in need of medical care.

(2) "City" is the City of East Ridge, Tennessee.

(3) "City license officials" or "license official" is the City Manager of the City of East Ridge or his authorized delegate.

(4) "Coordinator" is the Fire Chief for the City of East Ridge or his delegate who shall act as emergency medical service coordinator for the city and report to the city manager.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Service provider" or "service" is any person certified by the coordinator and licensed by the license official to provide emergency or non-emergency ambulance transportation of patients within the city limits of East Ridge, Tennessee.

(7) "Patient" is any person suffering from any illness, or injury whether alive or dead.

(8) "Department" is the Tennessee Department of Health, Division of Emergency Medical Services.

- (9) "ALS service" is Advanced Life Support Ambulance Service.
- (10) "BLS service" is Basic Life Support Ambulance Service.
- (11) "City communications center" or "fire/police communications center" is the City of East Ridge Fire/Police Communications Center. (Ord. #600, Oct. 1995)

**9-603. Certification and license required.** (1) It shall be unlawful for any person to operate or hold themselves out as being available to act as a service provider within the City of East Ridge unless such person has received certification by the coordinator and a license by the license official to operate as a service provider.

(2) The coordinator may waive the requirements of certification and license on an emergency temporary basis during times of disaster or other public health emergency that requires uncertified persons be allowed to act as service providers until the abatement of the public health emergency.

(3) The coordinator shall report to the city manager any public health emergency that requires temporary waiver of certification and license as mentioned in subsection (2) above. (Ord. #600, Oct. 1995)

**9-604. Application for certification and license.** Any person desiring to receive certification as a service provider shall submit application to the city on such forms as may be required by the license official and EMS coordinator. The application shall contain the following information:

(1) The applicant's name, business address, principal place of business and the name under which the applicant would do business and provide service in the City of East Ridge;

(2) If the applicant is a corporation, the name and address of any person owning more than 10% of the applicant's previously issued stock;

(3) If the applicant is doing business other than as a corporation, the name and address of all persons possessing an equity or ownership interest in the business;

(4) Name of contact person who shall act as director, manager or chief of service provider;

(5) The operating experience of the applicant in providing for the care, treatment, and if applicable, transportation of patients either within or without the City of East Ridge;

(6) A list of all employees engaged in the applicant's operation within the city including the current certification status of all emergency medical technicians, paramedics and first responder personnel;

(7) Such financial records as may be required by the coordinator and/or license official to reflect current financial status of the applicant;

(8) The schedule of rates proposed to be charged by ambulance services applicant;

(9) Evidence of insurance as required in § 9-608 of this chapter;

(10) A description of the applicant's training program, including training requirements for new employees, continuing education requirements, and employee performance evaluation programs;

(11) A description of each ambulance to be used including the make, model, year of manufacture, and any identifying registration numbers;

(12) In the case of ground ambulances; the engine, chassis numbers, and the current mileage of each vehicle to be used;

(13) Copy of certification by the department of each ground ambulance to be used in the City of East Ridge; and

(14) All service providers in good standing with the city at the time of the passage of this ordinance will not be required to go through the licensing procedure again. Those providers now in service must immediately conform to the mandates of this chapter. However, the providers shall be given one hundred eighty (180) days to comply with the mandates of § 9-610 (7)(a). (Ord. #600, Oct. 1995)

**9-605. License fee.** An application hereunder shall include an unconditional undertaking on the part of the applicant to pay to the city upon the issuance of the license herein required, the privilege taxes for the conduct of an ambulance business. (Ord. #600, Oct. 1995)

**9-606. Duties of license official.** After the filing of the application to operate a private ambulance service, the city manager acting as the license official shall conduct an investigation to determine the need for such service and the suitability of the applicant to perform as a service provider. The license official in issuing or denying the aforesaid license shall be guided by the following guidelines:

(1) That there is a present public need for such services;

(2) That the applicant is financially able to furnish suitable equipment at acceptable rates;

(3) That the equipment, premises and employees have been certified by the EMS coordinator as required by this chapter,

(4) That the applicant is duly insured pursuant to the provisions of § 9-608 in this code;

(5) That all of the laws of the state and ordinances of the city have been complied with by the applicant. (Ord. #600, Oct. 1995)

**9-607. Duties of EMS coordinator.** The fire chief acting as EMS coordinator shall:

(1) Inspect or cause to be inspected all ambulance service providers equipment, premises and employees. The coordinator shall report to the license official and provide:

(a) The coordinator's certification that each ambulance service provider's equipment, premises and employees comply with the requirements of this code and state law;

(b) The EMS coordinator's recommendation to either issue or deny the license to the ambulance service; and

(c) Assistance to the license official in any way the city manager determines is needed to complete the license officials investigations concerning the issuance or denial of a license.

(2) Coordinate the operation of ambulance service in the City of East Ridge on a day to day basis as required in §§ 9-610 and 9-611 of this chapter and report to the city manager.

(3) Coordinate all medical stand-by's, special events, and other programs or activities where either fire, rescue, service provider personnel or other medical personnel will be needed or utilized within the City of East Ridge. (Ord. #600, Oct. 1995)

**9-608. Insurance policy.** All service providers shall file with the license official an insurance policy as required by the Financial Responsibility Law of the State of Tennessee providing insurance coverage for each and every ambulance owned, operated, and/or leased by the service and professional liability coverage on its employees. In complying with this requirement each service shall:

(1) Maintain insurance only with insurance companies authorized to do business in the State of Tennessee;

(2) Maintain liability insurance on all vehicles and professional liability coverage on its employees of not less than one million dollars (\$1,000,000.00) per occurrence. (Ord. #600, Oct. 1995)

**9-609. Transfer of license.** Licenses issued for any service provider are not transferable.

(1) Any change in ownership or sub-lease of a service will require a new certification and license process to occur.

(2) Any change in addition/deletion of vehicles or employees shall be submitted to the city EMS coordinator along with proper certificates relating to:

(a) Vehicle certification, and

(b) Employee training certification and status with the department. (Ord. #600, Oct. 1995)

**9-610. Operating requirements for ambulance services.** In addition to meeting all the aforementioned requirements for certification and license all new and current certified service providers shall at all times conform to the following requirements:

(1) Any ambulance used by a service provider for emergency or non-emergency transportation of patients shall conform to all standards, rules and regulations promulgated and defined by the department.

(2) All paramedics, emergency medical technicians, and first responders staffing an ambulance shall be certified by the State of Tennessee and in good standing with the department.

(3) All service provider personnel working on ambulances shall be:

(a) Medically certified by the department at some level;

(b) Physically fit to perform the duties required;

(c) Not subject to epilepsy, vertigo or any other infirmity of body or mind which would render them unfit for the safe operation of the ambulance;

(d) Able to speak, read and write the English language;

(e) Clean of dress and person not addicted to the use of intoxicating liquors or narcotics; and

(f) Dressed in uniform used by service that displays the name of the personnel and level of certification by the department. The uniform shall have some type of insignia patch on it displaying the name of the service.

(4) All service provider personnel working on ambulances shall comply with the requirements of this chapter and all other pertinent laws and ordinances.

(5) Personnel shall have been issued and shall be in possession of a current class D, endorsement F driver's license of the State of Tennessee or the equivalent issued in another state.

(6) Service providers that are on the city ALS/BLS rotation list shall maintain an office in the city limits of East Ridge.

(7) Service providers shall sign an agreement of cooperation with the city fire department in keeping with the spirit and intent of department rule 1200-12-1. Such agreement of cooperation shall provide the following:

(a) Service providers shall be cooperatively assigned and permitted to use fire department dispatch frequency and shall maintain communication with the fire department.

(b) The fire department shall respond to emergency calls for medical assistance in the city limits as first responders and coordinate response of service providers.

(c) The city fire department shall operate the nationally recognized incident command system as required by state and federal laws and regulations.

(d) All service providers shall operate under the city fire department incident command system. Incident command shall determine and implement such sectors as triage, transportation, safety, rehabilitation, rescue, operations, etc., and service providers to assist where needed and as required.



(e) The city fire personnel shall assist service providers as needed at scenes of emergency and may ride to the hospital with/and assist ambulance crew when needed.

(f) Service providers are to replace supplies used by fire department first responders and shall bill the patient for their use.

(g) Service providers and the fire department are to cooperate in the replacement of equipment and supplies and the retrieval of each others equipment from emergency scenes and hospitals.

(h) Service providers and the fire department are to exchange patient information, records and reports, and quality assurance procedures.

(8) All service providers are required in cases of disaster to respond to the request of the city fire/police communications center and report for response coordination by the city EMS coordinator or the state E.M.S. regional consultant.

(9) Service providers are required to make every effort to place as many ambulances as possible in service during times of natural/man-made disaster or mass-casualty incidents.

(10) Especially during times of disaster, service providers that are on the city ALS/BLS rotation list for emergency calls are required to give priority to city calls as opposed to other areas outside the city.

(11) Equipment shall be available to allow ambulances to travel in inclement weather conditions including ice and snow.

(12) All maintenance, repairs records and inventory records of ambulances shall be available for inspection by the coordinator or the coordinator's designee or the state E.M.S. regional consultant at all times.

(13) No service provider shall deny emergency medical services or transportation to any patient based upon the patients race, creed, sex, national origin, or ability to pay. (Ord. #600, Oct. 1995)

**9-611. Ambulance service rotation list.** It shall be the intention of the City of East Ridge to provide Advanced Life Support (ALS) ambulance service to all emergency calls when possible. If an ALS service is not available a Basic Life Support (BLS) service shall be summoned. The city shall maintain an ALS/BLS rotation list in the fire/police communications center. Such ALS/BLS rotation list and procedures shall include:

(1) A list of names and phone numbers of each certified service provider offering ALS ambulances.

(2) A list of names and phone numbers of each certified service provider offering BLS ambulances.

(3) A service may appear on both ALS and BLS rotation list if said service offers both ALS and BLS ambulances.

(4) On receipt of a request for emergency ambulance service the city fire/police communications center will notify the ALS service that is next in line

on the ALS rotation list. If that service has no ALS ambulance available, the communications center will call the next ALS service on the ALS rotation list, and so on until an ALS service is dispatched on the call.

(5) If no ALS service is available for an emergency call, the city communications center will notify the next BLS service on the BLS rotation list. This procedure will continue until a BLS service is dispatched on the call.

(6) Each request for an ambulance will constitute one turn on either ALS/BLS rotation list for each service provider. However, if a citizen calls the communications center and requests a specific provider, that will not constitute a turn on the ALS/BLS rotation list.

(7) A service provider shall not respond a BLS ambulance to a call when the city communications center has requested an ALS ambulance unless authorized to do so by the communications center or the E.M.S. coordinator or his designee.

(8) If a service provider is dispatched by the communications center to an incident where no transport of a patient occurs that service shall be put back on top of the appropriate rotation list and shall not lose a turn on the rotation list.

(9) No service provider shall make any emergency call in the City of East Ridge without first notifying the city fire/police communications center and obtaining clearance for the trip. This rule shall apply to all service providers regardless of whether or not said service participates on the ALS/BLS rotation list.

(10) If a service provider responds to a non-emergency ambulance call, convalescent call, service call, invalid call or any other type call that subsequently changes to an emergency call the service provider shall immediately notify the city communications center by radio or telephone to request assistance and/or clearance as is required.

(11) No service provider shall answer any call on a non-emergency basis in order to either avoid notifying the city communications center or circumventing the spirit and intent of these rules and regulations.

(12) No service provider licensed by the city license official shall refuse to respond to an emergency call from the city fire/police communications center if the service provider has an ambulance available. This rule shall apply regardless of whether or not the service provider participates on the ALS/BLS rotation list.

(13) A service provider shall respond only with the number of ambulances requested and cleared by the city communications center.

(14) Effective at 12:01 A.M. the day following approval of this chapter by the City of East Ridge Mayor and Council, a new ALS and BLS rotation list will begin. Each current licensed and certified service provider shall be placed on the new ALS/BLS list in alphabetical order. Any new service provider that is certified and licensed in the future shall be added to the bottom of the appropriate list and not in alphabetical order.

(15) The EMS coordinator at his discretion may make any changes necessary in the ALS/BLS system's operating procedures to meet with the changing needs of the City of East Ridge and the service providers. Any new rules which are promulgated shall automatically become part of this chapter. (Ord. #600, Oct. 1995)

**9-612. Enforcement and penalties.** (1) All vehicles, equipment and response reports shall be available at all times for inspection by the coordinator, the coordinator's designee and the department of health regional emergency medical services consultant.

(2) The coordinator or the coordinator's designee shall investigate allegations of violation of requirements of this chapter, and the rules and regulations of the department. Additionally, the coordinator shall present any findings of the above mentioned investigations or inspections and any patient care issues to the city license official and state EMS consultant.

(3) Any violation of this chapter by a service provider or service provider's employee shall be a misdemeanor and shall be punishable as such. Additionally, any service provider who shall violate any provision of this chapter shall be subject to immediate suspension by the license official. In addition to any fine which may be assessed under the general penalty clause of this code. During such suspension the service provider shall carry out no activities in the city involving the operation of ambulances. Where the license official orders the suspension of a licensed service provider for violations of this chapter, the service provider shall be entitled to a hearing before the city manager as soon as reasonably practical if he should request such hearing. Upon the hearing, the city manager shall have the power to continue the suspension for a definite period of time, or to revoke the license in it's entirely. If the service provider shall not request a hearing before the city manager, then the action of the license official in making a suspension shall be final and shall continue for the period fixed by the license official. If the city manager feels that the violation is such that the license should be permanently revoked, then he may request a hearing for such service provider before the mayor and council for the purpose of having that body determine whether the license should be permanently revoked. The service provider shall be notified of such hearing and shall be given an opportunity to present any matter in his defense. (Ord. #600, Oct. 1995)

## CHAPTER 7

### LICENSING AND REGULATION OF MASSAGE PARLORS

#### SECTION

- 9-701. Permit and license required.
- 9-702. Definitions.
- 9-703. Applications.
- 9-704. Investigation and issuance.
- 9-705. Applications by employees of massage parlors or massagers or masseuses.
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- 9-708. Hearing on revocation.
- 9-709. Regulation concerning the operation of massage parlors.
- 9-710. Inspection of massage parlors.
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**9-701. Permit and license required.** It shall be unlawful for any person to engage in the business of operating a massage parlor or in the occupation of an employee as a massager or as a masseuse within the corporate limits of the City of East Ridge, Tennessee, without first obtaining a permit and license therefor as provided herein. (1993 Code, § 5-801)

**9-702. Definitions.** (1) The words "massage parlor" as used herein shall mean any place or location wherein the principal business of administering massages in any manner whatsoever to the person of a customer or patron is carried out for hire.

(2) The words "employee of a massage parlor" or "massager" or "masseuse" shall include any person who is employed in a massage parlor, whether male or female, and who undertakes to perform a massage in any manner upon the person of a customer or patron. (1993 Code, § 5-802)

**9-703. Applications.** Applicants for a permit or license under this chapter to operate a massage parlor must file with the city manager a sworn application in writing, in duplicate, on a form to be furnished by the city manager which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address (both residence address and business address);
- (3) A brief description of the nature of the business to be conducted and the service or services to be rendered to the customers or patrons of the business;
- (4) If the business is to be owned by some person other than the applicant, the name and address of the owner, together with credentials from

the owner establishing the right of the applicant to make application for the license and permit;

(5) The length of time for which the right to do business is desired;

(6) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be not less than 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;

(7) The fingerprints of the applicant and the names of at least two reliable property owners of Hamilton County, Tennessee who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

(9) A certification upon the application by the applicant that no person will be employed in such business except a person who has been issued a license and permit by the City of East Ridge under the terms of this chapter; and

(10) At the time of the filing of the application, a fee of \$25.00 shall be paid to the city manager to cover the cost of investigation. (1993 Code, § 5-803)

**9-704. Investigation and issuance.** (1) Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good;

(2) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the city manager, who shall notify the applicant that his or her application is disapproved, and that no permit or license will be issued; and

(3) If as a result of such investigation the character and business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse on the application his approval and return the same to the city manager, who shall, upon payment of the prescribed business license privilege tax of the State of Tennessee, deliver to the applicant his permit and issue a license. The city manager shall keep a permanent record of all licenses issued. (1993 Code, § 5-804)

**9-705. Applications by employees of massage parlors or massagers or masseuses.** Applicants for a permit under this chapter to work as an employee of massage parlors, or as a massager or masseuse must file with

the city manager a sworn application in writing, in duplicate, on a form to be furnished by the city manager, which shall give the following information:

- (1) The name, age, and description of the applicant;
- (2) Residence address;
- (3) Address of place of occupation;
- (4) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (5) The applicant shall attach to his or her application his or her certificate as a physical therapist or physiotherapist issued by the State Board of Medical Examiners of the State of Tennessee as required by Tennessee Code Annotated, § 63-13-102 or a certificate or license from the State of Tennessee which would authorize the applicant to engage in the business of performing massages as an incident to such certificate or license as authorized in Tennessee Code Annotated; and
- (6) At the time of the filing of the application a fee of \$2.00 shall be paid to the city manager for the administrative expense of the issuance of a permit. (1993 Code, § 5-805)

**9-706. Issuance of permits.** The city administrator shall issue a permit to all persons certified as physical therapists or physiotherapists by the Board of Medical Examiners of the State of Tennessee, as provided in Tennessee Code Annotated, § 63-13-102 et seq. If an applicant does not possess a certificate as specified above and as required under said code section of the code of the State of Tennessee, then the city manager shall not issue a permit to engage in the business of performing massages upon the person of a customer or patron in the City of East Ridge, Tennessee.

No operator of any massage parlor to whom a permit and license has been issued in the City of East Ridge shall conduct any massage activities himself or herself unless he or she also has a permit to act as a massager or masseuse.

No such person shall employ any person in the establishment operated by him or her who does not have a permit from the City of East Ridge, Tennessee, to act as a massager or masseuse. (1993 Code, § 5-806)

**9-707. Revocation of permits and licenses.** (1) Permits and licenses issued under the provisions of this chapter may be revoked after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license;
- (b) Any violation of this ordinance;
- (c) Conviction of any crime or misdemeanor involving moral turpitude; and

(d) Conducting the business of a massage parlor in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(2) Notice of the hearing for revocation of a license or permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed postage prepaid to the licensee at his last known address at least five (5) days prior to the date set for hearing. (1993 Code, § 5-807)

**9-708. Hearing on revocation.** The hearing shall be conducted by the council of the City of East Ridge, Tennessee, in a regularly scheduled meeting. After hearing the evidence, the council shall determine whether or not the license or permit shall be revoked, continued in force, or suspended for any period of time not to exceed sixty (60) days. The decision and order of the council shall be final and conclusive. (1993 Code, § 5-808, modified)

**9-709. Regulations concerning the operation of massage parlors.**

(1) When performing massages in any manner upon the body of a patron or customer a massagist shall be fully clothed and the customer shall be covered in the manner usually employed in hospitals and offices of the medical profession;

(2) Massage parlors shall be operated only between the hours of 7:00 A.M. and 10:00 P.M.;

(3) A massage parlor as a minimum shall have individual dressing rooms and lockers for patrons or customers, shall have separate showers and restrooms for male and female customers, patrons and employees; and

(4) The administering of massages shall not be conducted in private areas, but shall be conducted in separate general areas for males and females. (1993 Code, § 5-809)

**9-710. Inspection of massage parlors.** By accepting a license or permit from the City of East Ridge, Tennessee, the licensee or permittee does thereby consent to an inspection of the premises or operations of massage parlor at any time by the Police Department of the City of East Ridge, Tennessee. The permittee or licensee shall give free access to the police department in making such inspections, and any effort to deny access to any part of the establishment shall be deemed a violation of this chapter. (1993 Code, § 5-810)

**9-711. Penalties.** Any person violating any of the provisions of this chapter shall, upon conviction thereof, be in accordance with the provisions of the general penalty clause in this code punished and the license or permit of such person (if any) shall be subject to revocation. (1993 Code, § 5-811)

## CHAPTER 8

### TELECOMMUNICATIONS SERVICES

#### SECTION

- 9-801. Definitions.
- 9-802. Services prohibited without franchise and without authorization from State of Tennessee.
- 9-803. Application for telecommunications franchise; application fee.
- 9-804. General provisions for telecommunications services.
- 9-805. Engineering designs for telecommunications services systems; "as built" drawings for systems.
- 9-806. No adverse effect upon adjacent properties.
- 9-807. No adverse effect upon other utilities.
- 9-808. Restoration of public rights-of-way.
- 9-809. Maintenance of telecommunications services system in safe condition.
- 9-810. Notification of execution of any security agreement or similar agreement concerning telecommunications services systems.
- 9-811. Indemnification of city by providers.
- 9-812. Insurance to be maintained by providers.
- 9-813. Removal or relocation of systems.
- 9-814. Assignment of franchise; lease or sale of capacity.
- 9-815. Removal of obsolete equipment.
- 9-816. No cost to city arising out of franchise.
- 9-817. Performance bond from providers.
- 9-818. Franchise fee from providers.
- 9-819. Default of providers.
- 9-820. Notices.
- 9-821. Nondiscrimination by providers.
- 9-822. No grant of use of other utilities' property.

**9-801. Definitions.** For the purposes of this chapter, the following definitions shall apply:

(1) "City of East Ridge" and "city" shall mean the City of East Ridge Tennessee.

(2) "Gross revenue" shall mean all revenues of any kind collected by provider from any source whatsoever for customer access to a long distance telephone carrier or provider using a telecommunications services system within the City of East Ridge. For the purposes of this section, "Gross revenue" shall not include:

(a) Any taxes which are collected by provider from its customers,

(b) Lease or rental fees received from a lessee or sublessee of provider's system for which a five percent (5%) franchise fee on the



lessee's or sublessee's gross revenue is paid to the city pursuant to this article, or

(c) Revenues from sale of capacity in provider's system for which a franchise fee on the purchaser's gross revenue is paid to the city pursuant to this article.

(3) "Provider" shall mean any person who owns, leases, operates, installs, purchases capacity in or maintains any network or equipment within the City of East Ridge for telecommunications services containing communication cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams or conduit and any associated converters, equipment or facilities designed and constructed for the purpose of producing, receiving or amplifying or distribution, by audio, video or other forms of electronic signals to or from subscribers or locations within the City of East Ridge and not including cable television, (hereinafter collectively referred to as "provider's system" or "system") in, on or over the public rights-of-way of the City of East Ridge.

(4) "Telecommunications services" shall mean all telephone and telegraph services of any kind whatsoever including, but not limited to, the following:

(a) Services interconnecting interexchange carriers for the purpose of voice data transmission;

(b) Services connecting interexchange carriers or competitive carriers to telephone companies providing local exchange services for the purpose of voice or data transmission;

(c) Services connecting interexchange carriers to any entity, other than another interexchange carrier, or telephone company providing local exchange services, for the purpose of voice or data transmission;

(d) Services providing private line point-to-point service for end users for voice and data transmission; and

(e) Local exchange telephone services. (Ord. #608, Feb. 1996)

**9-802. Services prohibited without franchise and without authorization from State of Tennessee.** No person or entity shall use the public rights-of-way in the city for telecommunications services without first having received a franchise from the governing body of the city for telecommunications services. No person shall provide services directly regulated by the Tennessee Public Service Commission (or any successor agency) under Tennessee law unless so authorized by the public service commission, if such authorization is required. No person or entity shall use the public rights-of-way in the city for video dial tone or personal communication service without first having received a franchise from the governing body of the city for telecommunications services. (Ord. #608, Feb. 1996)

**9-803. Application for telecommunications franchise; application fee.** Any entity desiring to construct, operate, lease or purchase capacity (for resale) in a telecommunications system within the rights-of-way of the city shall make application for a franchise from the city to the office of the city manager on the form provided by the city manager. Such application shall be accompanied by an application fee of seven hundred fifty dollars (\$750.00). (Ord. #608, Feb. 1996)

**9-804. General provisions for telecommunications services.** Any provider shall comply with any special requirements of the office of the city manager or office of the city traffic engineer with respect to the specific location and installation of provider's system and with respect to any other matters which affect the installation, operation and maintenance of provider's system; to the maximum extent possible, provider's system shall be installed underground, provided that provider's system may be installed above ground where either telephone or electric utility facilities are above ground at the time of installation. To the extent that provider, installs its system in underground ducts, provider shall provide to the city one duct of equal size to that of provider's for the city's exclusive use; if provider installs its own poles, provider will reserve space on said poles for the city to install its own line on said poles. To the extent that provider installs fiber optic fibers for its system, provider agrees to provide the city with four (4) dark fiber optic fibers and access thereto (including lateral connections) on provider's system, at no cost to the city for the city's unrestricted exclusive use; provider shall also provide coordination and engineering assistance to the city for providing such fiber optic accesses for initial hookup as the city may desire at no cost to the city. The city will not sell or lease said fibers to any competitor or potential customer of provider during the term of any franchise to provider for telecommunications services. Provider, with the prior written approval of the city manager the city traffic engineer, may make minor deviations from the provider's system as shown in the map attached to provider's franchise application in the event unforeseen problems necessitate the rerouting of said system. Provider will comply with all applicable city ordinances and state laws, including but not limited to obtaining building permits, street cut permits and any other permit required by applicable laws. (Ord. #608, Feb. 1996)

**9-805. Engineering designs for telecommunications services systems; "as built" drawings for systems.** Engineering designs for provider's system will be prepared by a competent engineering group which shall be licensed by the state if required by state law and installation will be performed by a competent contractor which shall be licensed by the state if required by state law, and provider will furnish said engineering designs to the city no less than thirty (30) days prior to commencement of construction. Provider will provide to the city manager "as built" drawings for its system within 120 days

of completion of the initial phase of said system; provider shall update said drawings within 120 days of the completion of any material change to provider's system; said "as built" drawings shall include, at a minimum, the routing of provider's system and the location of all amplifiers, power supplies and system monitor test points, provided that if provider already has its system, or a portion thereof, in place as of the effective date of this section, provider shall provide such "as built" drawings to the city manager within the time provided in such provider's franchise application. (Ord. #608, Feb. 1996)

**9-806. No adverse effect upon adjacent properties.** Under no conditions will the installation of provider's system adversely affect any properties adjacent to the public rights-of-way without the prior express written permission of the owner of such properties. (Ord. #608, Feb. 1996)

**9-807. No adverse effect upon other utilities.** Under no conditions will the installation of provider's system adversely affect any existing utilities without the prior express written permission of such utilities. Provider's system will not physically interrupt or interfere with the facilities in the public rights-of-way of the Chattanooga Gas Company, BellSouth, the Electric Power Board of Chattanooga, the water utility in whose area provider's system is located, Chattanooga Cable TV Company, and any other utilities or companies holding a franchise in any right-of-way in which provider's system is to be located. Provider is responsible for ensuring compliance with this section. (Ord. #608, Feb. 1996)

**9-808. Restoration of public rights-of-way.** Provider shall promptly restore to its original condition in accordance with the city's standard specifications for streets and sidewalks any street pavement, sidewalks or other portions of the public right-of-way disrupted by construction of provider's system. By acceptance of any franchise from the city to provide telecommunications services, provider warrants the restoration of any disturbed right-of-way or part thereof. Provider will, to the maximum extent possible coordinate all system installation, repairs and maintenance with other utilities and franchisees so as to minimize the number of street cuts and interruption of traffic within the city. (Ord. #608, Feb. 1996)

**9-809. Maintenance of telecommunications services system in safe condition.** Provider shall maintain provider's system in a safe condition during the term of any franchise it holds from the city. (Ord. #608, Feb. 1996)

**9-810. Notification of execution of any security agreement or similar agreement concerning telecommunications services systems.** Provider will notify the city of the execution of any security agreement or similar agreement concerning any of the facilities and property, real or personal, of the

provider located in the City of East Ridge and will, upon three (3) business days notice, allow the city to inspect any such agreements in East Ridge Tennessee. (Ord. #608, Feb. 1996)

**9-811. Indemnification of city by providers.** Provider will defend, indemnify and hold harmless the city, its officers, employees, successors and assigns from any and all actions or claims for damages arising out of or related to the operation, installation or maintenance of provider's system. (Ord. #608, Feb. 1996)

**9-812. Insurance to be maintained by providers.** Provider will provide for approval by the office of the city manager evidence of general liability insurance to further indemnify the city against losses of whatever kind and nature as a result of provider's system being in the public right-of-way with limits of liability not less than those set forth in the Tennessee Governmental Tort Liability Act, as amended from time to time. Such insurance policy or policies shall name the City of East Ridge as an additional insured and shall provide that the same may not be canceled for any reason except after thirty (30) days written notice to the city. (Ord. #608, Feb. 1996)

**9-813. Removal or relocation of systems.** In the event the city shall need the right-of-way for the purpose of providing public improvements either to the street or the public right-of-way, for the best interest for the public or in the event the city abandons a public right-of-way and does not reserve an easement for provider, and provider's system or any part thereof should need to be relocated or removed, such relocation or removal will be done at the sole expense of the provider; in the event provider fails or refuses to timely complete such relocation or removal, the city shall have the right to perform such relocation or removal, and provider shall promptly reimburse the city for all costs associated therewith. (Ord. #608, Feb. 1996)

**9-814. Assignment of franchise; lease or sale of capacity.** No provider shall assign or transfer any franchise from the city without the prior approval of the East Ridge City Council by ordinance or resolution, which approval shall not be unreasonably withheld. No provider shall lease or rent any portion of the right-of-way it uses to any other entity which has not obtained a franchise for telecommunications services from the city, and no provider shall sell, lease or rent any portion of or capacity in provider's system to any other entity which has not obtained a franchise for telecommunications services from the city.

A mortgage, lien, deed to secure debt, deed of trust, security interest or other encumbrance of provider's franchise as a part of acquiring, constructing, equipping or maintaining provider's system shall not be considered a violation of this section; any such creditor shall be entitled to all the rights and remedies

granted to same in any documents relating to any such transaction, provided that any sale or transfer of provider's system or any portion thereof following a foreclosure sale shall be subject to the prior approval of the East Ridge City Council by ordinance or resolution which approval shall not be unreasonably withheld. (Ord. #608, Feb. 1996)

**9-815. Removal of obsolete equipment.** When provider opens a trench, accesses a conduit or boring, or is working on aerial locations, or when provider is aware that any other franchise or public utility is opening a trench, accessing a conduit or boring, or is working on aerial locations with access to provider's system provider shall remove all of its obsolete communication cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, conduit and all of its obsolete associated converters, equipment or facilities while they are open without interfering with the efficient operation of other public utilities. In the event provider's franchise is terminated, forfeited or abandoned, the city may require provider to remove provider's system or any portion thereof from the public right-of-way within a reasonable period of time, and in the event provider fails to do so the city may, at its option, remove provider's system or any portion thereof from the public right-of-way and seek reimbursement therefor from provider or from any performance bond posted by provider in favor of the city. (Ord. #608, Feb. 1996)

**9-816. No cost to city arising out of franchise.** The city shall incur no costs or expenses as a result of granting any franchise to provider or as a result of connecting to provider's system (other than usual and customary fees for the use of provider's system in the event the city utilizes same). (Ord. #608, Feb. 1996)

**9-817. Performance bond from providers.** Any provider shall, during construction of any phase of provider's system, post a bond in form satisfactory to the office of the city manager, in the amount of the lesser of:

- (1) Two hundred fifty thousand dollars (\$250,000.00) or
- (2) The cost of such construction, to secure the performance of all of provider's obligations under provider's franchise and this article including, but not limited to, the cost of removal of provider's system from the public right-of-way in the event provider's franchise is terminated or abandoned and the cost of repairing any damage to the city rights-of-way in the event provider fails to repair same.

For a period of one year after the city manager has certified satisfactory completion of construction of provider's system or any part thereof to the city's standards set forth in providers franchise ordinance and this article and to any applicable standards otherwise imposed by law, provider shall post a bond, in form satisfactory to the office of the city manager in the amount of fifty thousand dollars (\$50,000.00) to secure the performance of all of provider's

obligations under provider's franchise ordinance and this article including, but not limited to, the cost of removal of provider's system from the public right-of-way in the event provider's franchise is terminated or abandoned and the cost of repairing any damage to the city rights-of-way in the event provider fails to repair same. (Ord. #608, Feb. 1996)

**9-818. Franchise fee from providers.** Provider shall pay to the city on a quarterly basis a franchise fee of five percent (5%) of the gross revenue, as defined in § 9-801 above, of the provider. Payments of said franchise fee shall be due and payable on or before the fifteenth day of February, May, August and November of each year for the preceding calendar quarter.

In the event it is determined that the city is not permitted by law or otherwise to assess or collect a franchise fee based upon provider's gross revenues, then an annual franchise fee based upon a flat fee per linear foot of public right-of-way in which provider has installed it's system in the city's public right-of-way shall be paid by the provider to the city according to the schedule set forth in the chart below which will be amended before the year 2002 to establish said fee for subsequent years):

<u>Payment Due</u>	<u>Fee Per Linear Foot</u>
1997	\$1.00
1998	\$1.05
1999	\$1.15
2000	\$1.21
2001	\$1.27

Such payment shall be due and payable thirty (30) days after the end of each calendar year or, if the provider pays its taxes based upon a fiscal year ending other than on December 31, such payment shall be due and payable thirty (30) days after the end of each fiscal year of the provider.

Provider shall submit to the city with its franchise fee payment a sworn report showing total revenue, detailed by category, received by provider from the operations of provider's system during the preceding calendar quarter. Provider shall also make available in the City of East Ridge for inspection by the city, upon three business days notice, independently audited financial statements showing all revenue, detailed by category, received by provider during the preceding calendar or fiscal year.

Upon fifteen days written notice from the city, provider shall make available in East Ridge all books and records of the provider which are requested by the city for audit purposes to ensure that franchise fees in the proper amount have been paid. In the event any such audit reveals that provider has paid less than ninety-seven percent (97%) of any portion of any franchise fee payment due to the city, provider shall reimburse the city for the

cost of any such audit as well as for any franchise fee payment which is overdue together with interest thereon as provided below.

In the event any franchise fee payment due under this section is paid late, provider shall also pay interest thereon at the rate of eighteen percent (18%) per annum for any period such payment is late. No portion of the franchise fee shall be noted separately on bills to customers except as required by law.

Notwithstanding anything herein to the contrary, the franchise fees payments due under this section shall be paid beginning January 1, 1997. (Ord. #608, Feb. 1996)

**9-819. Default of providers.** (1) The occurrence of any one or more of the following events, at the city's sole option, shall constitute an event of default by the provider under any franchise from the city for telecommunications services:

(a) The provider shall fail to pay when due any franchise fee as and when such fee becomes due or any lessee or sublessee of provider's system shall fail to pay any franchise fee as and when such fee becomes due as set forth in § 9-818 above.

(b) The provider shall fail to observe or perform any other obligation to be observed or performed by it under this article.

(c) The provider shall dissolve or discontinue the provider's business, or transfer all or substantially all of the property of the provider without the prior consent of the East Ridge City Council by ordinance or resolution.

(d) A judgment creditor of the provider other than the holder of a valid security interest in provider's system shall obtain possession of any portion of the provider's system in the public rights-of-way of the city by any means.

(e) That provider fails to begin actual construction on provider's system within six (6) months of the date provider obtains a franchise for telecommunications services from the city, or provider has not substantially completed provider's system as set forth in the franchise from the city to provider within two (2) years of the date provider obtains a franchise for telecommunications services from the city.

(2) Upon the occurrence of any event of default specified in this section, the city shall notify provider in writing of such event of default and identify the event of default; such notice shall also notify provider that the franchise from the city to provider for telecommunications services is considered forfeited by provider and canceled not less than fifteen (15) business days from the date of receipt of such notice by provider unless such default, violation, non-compliance or other event causing forfeiture of said franchise specified in the notice has been cured with said fifteen (15) business days.

(3) Before any franchise for telecommunications services may be terminated and canceled, provider shall be provided with an opportunity to be

heard before the governing body of the city. In the event provider desires to have a hearing before the city council, provider shall within ten (10) business days of its receipt of the aforementioned notice, notify in writing the clerk of the city council of its desire for such a hearing; upon receipt of such a request for a hearing, the clerk shall notify the council at or before its next meeting of such request and the council shall schedule a hearing upon such request. The termination of provider's franchise shall be stayed until the conclusion of such hearing before the city council. In the event the city council determines that no event of default has occurred or that such default has been timely cured, provider's franchise shall continue in full force and effect.

(4) In the event the city council determines that a specific default cannot be cured within such fifteen (15) business day period and the provider has timely instituted action necessary to cure such default, provider shall be permitted to diligently pursue such cure to completion; the city council may specify a time period within which provider must cure such default, and in the event provider fails to cure within such time period, provider's franchise for telecommunications services shall be considered forfeited and canceled. (Ord. #608, Feb. 1996)

**9-820. Notices.** Any notices or communication required in the administration of provider's franchise for telecommunications services from the city shall be sent by hand delivery or by any method that assures overnight delivery and shall be addressed as follows:

If to the city:

Office of the Mayor  
East Ridge City Hall  
1517 Tombras Avenue  
East Ridge, Tennessee 37412

with a copy to:

Office of the City Attorney  
605 Lindsay Street  
Chattanooga, Tennessee 37403

If to the provider, to the address of provider listed on the franchise ordinance from the city. (Ord. #608, Feb. 1996)

**9-821. Nondiscrimination by providers.** Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin, and provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Provider will post in conspicuous places, available to employees and applicants



for employment notices setting forth the provisions of this nondiscrimination clause. (Ord. #608, Feb. 1996)

**9-822. No grant or use of other utilities' property.** Nothing in this article or in a provider's franchise shall be deemed to grant to any provider any rights to work in, use or attach to any facilities of the Electric Power Board of the City of Chattanooga, Bellsouth or any other utility or entity occupying space in the public rights-of-way without the prior express written permission of any such entity. (Ord. #608, Feb. 1996)

## CHAPTER 9

### CABLE TELEVISION

#### SECTION

9-901. To be furnished under franchise.

**9-901. To be furnished under franchise.** Cable television service shall be furnished to the City of East Ridge and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of East Ridge and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #499 dated Sept. 13, 1990 in the office of the city recorder.

## CHAPTER 10

### YARD SALES

#### SECTION

- 9-1001. Definitions.
- 9-1002. Property permitted to be sold.
- 9-1003. Permit required.
- 9-1004. Permit procedure.
- 9-1005. Permit conditions.
- 9-1006. Hours of operation.
- 9-1007. Exceptions.
- 9-1008. Display of sale property.
- 9-1009. Display of permit.
- 9-1010. Advertising.
- 9-1011. Persons exempted from chapter.
- 9-1012. Violations and penalty.

**9-1001. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given here:

(1) "Person" shall mean a person, persons, individual or individuals, applicant and all members of a single household or residence shall be considered a "person" for the purposes of this chapter.

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

(3) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises for the purpose of disposing of personal property including but not limited to, all sales entitled "garage," "lawn," "attic," "porch," "room," "moving," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of the sale specifically identify the items to be sold. (as added by Ord. #773, May 2004)

**9-1002. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #773, May 2004)

**9-1003. Permit required.** No yard sale shall be conducted until the person desiring to conduct the yard sale obtains a permit from the City of East Ridge. The cost of the permit shall be ten dollars (\$10.00). The first yard sale permit issued each year to an individual shall be without charge. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. (as added by Ord. #773, May 2004)

**9-1004. Permit procedure.** (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the City of East Ridge at least three (3) days in advance of the proposed yard sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the yard sale is to be held.
- (c) The date or dates upon which the yard sale shall be held.
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year.

(e) A statement that the property to be sold was owned by the applicant or applicants as his or her own personal property and was neither acquired nor consigned for the purpose of resale.

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

(2) Issuance of permit. Upon the applicant complying with the terms of this chapter, the City of East Ridge shall issue a permit. (as added by Ord. #773, May 2004)

**9-1005. Permit conditions.** The permit shall set forth the time and location of the yard sale. No more than four (4) yard sale permits shall be issued to one (1) residential location, residence and/or family household or person during any calendar year. If members of more than one (1) residence join in requesting a yard sale permit, then the yard sale permit shall be considered as having been issued for each and all of the residences. (as added by Ord. #773, May 2004)

**9-1006. Hours of operation.** Yard sales shall be conducted between 6:00 A.M. to 6:00 P.M. and for no more than three (3) consecutive days. (as added by Ord. #773, May 2004)

**9-1007. Exceptions.** (1) Inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and a statement by the permit holder to this effect is submitted, the City of East Ridge shall issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held.

(2) The number of yard sales relative to a residence contained in § 9-1005 above shall not be considered as a restriction on any new owner or occupant of a residence or location so long as the remaining portions of this chapter are complied with. It shall be the decision of the zoning compliance officer on whether or not this section applies. (as added by Ord. #773, May 2004)

**9-1008. Display of sale property.** (1) Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way.

(2) A vehicle offered for sale may be displayed on a permanently constructed driveway within the front or side yard.

(3) Personal property offered for sale shall be displayed not more than twenty-four (24) hours before the time the yard sale is scheduled to start and shall be removed from public display within twenty-four (24) hours from the end of the yard sale. (as added by Ord. #773, May 2004)

**9-1009. Display of permit.** Yard sale permit shall be posted on the premises in a conspicuous place so as to be seen by the public. (as added by Ord. #773, May 2004)

**9-1010. Advertising.** (1) Signs permitted. Only the following signs may be displayed for a yard sale:

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

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

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

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

(4) Posting of signs. Signs shall not be attached to utility poles, highway or street signs or directional signals and shall not be in or on any street, highway, alley, sidewalk or public right-of-way. (as added by Ord. #773, May 2004)

**9-1011. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to a court order.

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

(3) Any sale conducted by any merchant or other business establishment on a regular, day-to-day basis from or at the place of business wherein the sale would be permitted by zoning regulations of the City of East Ridge protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from property zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #773, May 2004)

**9-1012. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. (as added by Ord. #773, May 2004)