

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC¹

CHAPTER

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2. CHARITABLE SOLICITORS.
3. TAXICABS.
4. POOL ROOMS.
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CHAPTER 1

PEDDLERS AND SOLICITORS.²

SECTION

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¹ Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

² Municipal code reference

Privilege taxes: title 5.

See Ord. #93-12 for information regarding peddlers permit of record in the office the recorder.

9-101. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (Ord. #1970-42, Jan. 1971)

9-102. Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations. (Ord. #1970-42, Jan. 1971)

9-103. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (10) At the time of filing the application, a fee of fifty dollars (\$50.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (Ord. #1970-42, Jan. 1971, Ord. 2006-51, Nov. 2006)

9-104. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-106. The city recorder shall keep a permanent record of all permits issued. (Ord. #1970-42, Jan. 1971)

9-105. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #1970-42, Jan. 1971, modified)

9-106. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (Ord. #1970-42, Jan. 1971)

9-107. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell until a permit is secured from the recorder. Hours for the use of such noises, amplifiers or loudspeaker systems shall be restricted to the hours so designated in the permit. (Ord. 1997-34, September, 1997)

9-108. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. #1970-42, Jan. 1971)

9-109. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (Ord. #1970-42, Jan. 1971)

9-110. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (Ord. #1970-42, Jan. 1971)

9-111. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (Ord. #1970-42, Jan. 1971, modified)

9-112. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #1970-42, Jan. 1971)

9-113. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a

privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (Ord. #1970-42, Jan. 1971)

9-114. Solicitation on public right-of-ways. (1) No person shall use any public right-of-way for the purpose of soliciting employment, business or contributions from the occupants of any vehicle, without first obtaining a permit from the Hendersonville Police Chief or his designee.

(2) Any person or organization requesting permission to solicit from motorists must apply to the Chief of the Hendersonville Police Department at least sixty (60) days prior to said solicitation. The permit will be granted only upon showing that proper precautions will be taken to prevent traffic congestion and to protect the health and safety of those participating.

(3) Solicitations will be allowed to take place only on five of the following seven streets: Bonita Parkway, Indian Lake Road, Sanders Ferry Road, Walton Ferry Road, Imperial Boulevard, New Shackle Island Road, and Center Point Road, with the approved locations to be specified in the permit.

(4) Only one (1) permit per year will be issued to a local person or organization for the same solicitation, and this solicitation shall be for daylight hours only and only one weekend in a calendar year; further, only one permit can be issued for any given weekend.

(5) Solicitors shall be at least eighteen (18) years of age and must be citizens of Hendersonville, Tennessee.

(6) The chief of police is authorized to promulgate rules for pedestrian solicitation.

(7) Only citizens of Hendersonville acting on behalf of local organizations which are based and headquartered within this or adjacent counties shall be considered for a permit.

(8) All persons seeking a solicitation permit must be approved in accordance with chapter 2 of this title.

(9) Any person or organization seeking a solicitation permit must possess a federal tax identification number and a Form 501(C)(3). (Ord 1985-25, Sept. 1985, and Ord. 1997-52, November 1997)

9-115. Use of private property to sell personal property. (1) No person or company shall, on land owned by others, within the City of Hendersonville display for sale any vehicle, personal property or merchandise without the written permission of the owner or lessee of the real property upon which the personal property is displayed.

(2) All vehicles, personal property or merchandise displayed for sale by persons or companies not owning the land upon which the property is located shall have affixed thereto as near as possible to the "for sale" sign the written permission of the owner of the property.

(3) Any vehicle, personal property or merchandise displayed for sale in parking lots or vacant lots in the City of Hendersonville without written permission of the owner or lessee of the land, affixed in an easily read manner, to the “for sale” sign may be impounded by the City of Hendersonville or the land owner and stored at the expense of the owner thereof.

(4) Any person displaying a vehicle, personal property or merchandise on privately owned property without the written permission of the owner or lessee of the land affixed thereto shall be in violation of this chapter and subject to a fine as the city judge may direct but not to exceed five hundred dollars (\$500.00) for each day of violation each day being considered a separate violation. (Ord. # 1979-18, April 1979, modified)

CHAPTER 2

CHARITABLE SOLICITORS

SECTION

- 9-201. Permit required.
- 9-202. Prerequisites for a permit.
- 9-203. Denial of a permit.
- 9-204. Exhibition of permit.

9-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (Ord. #1970-43, Jan. 1971)

9-202. Prerequisites for a permit. The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (Ord. #1970-43, Jan. 1971)

9-203. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (Ord. #1970-43, Jan. 1971)

9-204. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (Ord. #1970-43, Jan. 1971)

CHAPTER 3

TAXICABS¹

SECTION

- 9-301. Taxicab franchise required.
- 9-302. Application and hearing.
- 9-303. Liability insurance required.
- 9-304. Revocation or suspension of franchise.
- 9-305. Mechanical condition of vehicles.
- 9-306. Cleanliness of vehicles.
- 9-307. License and permit required for drivers.
- 9-308. Qualifications for driver's permit.
- 9-309. Revocation or suspension of driver's permit.
- 9-310. Fees.
- 9-311. Manifests.
- 9-312. Drivers not to solicit business.
- 9-313. Parking restricted.
- 9-314. Drivers to use direct routes.
- 9-315. Taxicabs not to be used for illegal purposes.
- 9-316. Miscellaneous prohibited conduct by drivers.
- 9-317. Transportation of more than one passenger at the same time.
- 9-318. Fares.

9-301. Taxicab franchise required. It shall be unlawful for any person to engage in the taxicab business unless a taxicab franchise is first obtained from the City of Hendersonville. A “taxicab” is a motor vehicle regularly engaged in the business of carrying passengers for hire, donation, gratuity, or any other form of remuneration, having a seating capacity of less than ten persons and not operated on a fixed route; expressly excluded from this definition are limousines and hotel-operated shuttles. “Taxicab business” means fares originating in the City of Hendersonville. (Ord. 1986-20, June 1986, Ord. #2010-32, January 2011)

9-302. Application and hearing. No person shall be eligible for a taxicab franchise if they have been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made on prescribed forms to the city recorder.

¹Municipal code reference
Privilege taxes: title 5.

The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the city recorder may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant.

After receipt of an application, the city recorder shall have the police chief make a thorough investigation of the applicant; publish a notice of public hearing, and present the application to the governing body. The board of mayor and aldermen shall hold a public hearing at which time citizens for and against the granting of the franchise shall be heard. After the public hearing, the board of mayor and aldermen shall, by resolution, award a franchise if deemed appropriate. Any such franchises awarded shall be for an initial period of one (1) year, renewable on an annual basis.

Annual renewals of franchises may be accomplished by certification to the city recorder that the franchise holder has fully complied with the provisions of this chapter, and by providing such other information as may be required by the city recorder for the orderly administration of this chapter. (Ord. #1986-20, June 1986, as amended by Ord. #1990-29, May 1990)

9-303. Liability insurance required. All taxicab franchises shall maintain such liability as is required by the State of Tennessee. Written proof of insurance shall be filed with the city recorder. The franchises provided for herein shall only be effective during times in which proof of insurance is on file with the city recorder. (Ord. #1986-20, June 1986)

9-304. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise. The franchise shall be automatically suspended during times in which written proof of insurance is not on file with the city recorder. (Ord. #1986-20, June 1986)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The mechanical parts shall be kept in such condition as may be reasonably necessary to provide the safety of the public and the continuous satisfactory operation of the taxicab. Every vehicle operating pursuant to this chapter shall be inspected by the police department, at minimum, on an annual basis to insure the continued maintenance of safe operating conditions. Proof of such inspections shall be provided to the city recorder on forms prescribed by the city recorder. (Ord. #1986-20, June 1986, as amended by Ord. #1990-29, May 1990)

Revised 5/2011

9-306. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (Ord. #1986-20, June 1986)

9-307. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the city recorder. (Ord. #1986-20, June 1986)

9-308. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the city recorder:

- (1) Makes written application to the city recorder.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be in suitable physical condition to safely drive a taxicab.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Has not been convicted of a felony, drunk driving, or driving under the influence of an intoxicant or drug, within the last ten (10) years.

Driver's permits shall be for a period of one (1) year. Annual renewals of driver's permits may be accomplished by certification to the city recorder that the permit holder has fully complied with the provisions of this chapter, and by providing such other information as may be required by the city recorder for the orderly administration of this chapter. (Ord. #1986-20, June 1986, as amended by Ord. #1990-29, May 1990)

9-309. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit. The driver's permit shall be automatically terminated upon the expiration or revocation of the driver's state special chauffeur's license or upon conviction of any felony, drunk driving or driving under the influence of intoxicant or drug charge or upon the conviction for reckless driving. (Ord. #1986-20, June 1986)

9-310. Fees. The following fees shall be paid to the city for the franchises and permits authorized by this chapter:

Initial franchise fee:	\$ 100.00
Initial background check:	\$ 50.00
Franchise renewal fee:	\$ 50.00
Annual fee per vehicle:	\$ 25.00
Annual driver's permit fee:	\$ 10.00.

(Ord. #1990-29, May 1990, Ord. # 2010-25, September 2010)

Revised 5/2011

9-311. Manifests. Every taxicab driver shall maintain a daily manifest upon which is recorded all trips made each day, showing the time and place of origin and destination of each trip and the amount of fare and number of passengers. All such completed manifests shall be returned to the cab by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the cab owner and shall be of a character approved by the city recorder.

Every cab owner shall retain and preserve all such manifests for two (2) years, and such manifests shall be available to the city recorder.

The provisions of this section shall only apply to trips involving passengers picked up in the city. (Ord. #1990-29, May 1990)

9-312. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (Ord. #1986-20, June 1986)

9-313. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. Taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops do not interfere with or obstruct other traffic. (Ord. #1986-20, June 1986)

9-314. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (Ord. #1986-20, June 1986)

9-315. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (Ord. #1986-20, June 1986)

9-316. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet and tranquility of the municipality in any way. (Ord. #1986-20, June 1986)

9-317. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (Ord. #1986-20, June 1986)

Revised 5/2011

9-318. Fares. All taxicabs shall have meters visible to the passengers. Fares shall be posted on the door of each taxicab and filed with the city recorder. No fare may be charged in excess of the posted and filed rate. (Ord. #1986-20, June 1986)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated and management.

9-403. Minors to be kept out; exception.

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. (Ord. #1970-1, Jan. 1970)

9-402. Hours of operation regulated and management. 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 between the hours of Midnight and 6:00 A.M. Monday through Saturday and between the hours of Midnight and 1:00 P.M. on Sundays, and it shall be unlawful for any person to open, maintain, conduct, manage or operate any such business, as hereinabove described, under the age of eighteen (18) years, and it shall likewise be unlawful for any person or persons to leave said business in the care of, or management of, any person or persons under the age of eighteen (18) years. (Ord. #1972-32, Aug. 1972)

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 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 other 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. (Ord. #1970-1, Jan. 1970)

¹Municipal code reference

Privilege taxes: title 5

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of Hendersonville and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Hendersonville 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.²

²For complete details relating to the cable television franchise agreement see Ord. #1992-33 dated November, 1992, and any amendments, in the office of the city recorder.

CHAPTER 6

WRECKER SERVICE

SECTION

- 9-601. Definitions.
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- 9-603. Police call list-eligibility to wreckers.
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- 9-624. Granting, suspension and revocation of licenses and permits.
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9-601. Definitions. (1) "City:" the City of Hendersonville, Sumner County, Tennessee.

(2) "Mayor:" the Mayor of the City of Hendersonville.

(3) "Cruising:" the driving of a wrecker on the streets, alleys, or public places of the city in a fashion or manner calculated for the purpose of soliciting business.

(4) "Driver:" any person driving a wrecker upon the streets and roads or the city.

(5) "Driver helper:" any person riding with a driver or assisting him in the wrecker business.

(6) "Emergency wrecker service:" the removal of motor vehicles from the alleys, streets, highways, or thoroughfares within the geographical jurisdiction of this city at the request of the city police department.

(7) "License:" permit issued by the city authorizing the holder thereof to engage in the business of providing Emergency Wrecker Service ("EWS") within the city.

(8) "Person:" any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or other similar representative thereof.

(9) "Wrecker:" a public vehicle constructed on a truck chassis with lifting devices operated by mechanical power and employed or used for the purpose of towing, transporting, conveying, or removing any and all kinds of vehicles which are unable to be or actually are not operated under their own power.

(10) "Police call list:" the list of the current approved licensees for emergency wrecker service. (Ord. #1991-28, July 1991)

9-602. Purpose and intent. It is hereby declared to be the purpose and intent of this chapter to regulate all wrecker services doing business within the city in order to provide an orderly, safe, and efficient means of removing vehicles that become disabled by reason of accidents, mechanical breakdowns, or for any other reasons, necessitating the removal of such vehicle from the public ways of the city, to provide an efficient, orderly and safe method for the keeping and maintaining of the public streets, ways and means, free from traffic obstruction and to generally provide, by this chapter, a method of assuring all citizens of this city and the public in general, that their health, safety, welfare, and their property, are safeguarded and protected.

The provisions of this chapter shall not apply to a wrecker service located outside the city which occasionally passes through or delivers vehicles within the city unless such wrecker service picks up such vehicle that has been wrecked within the city. (Ord. #1991-28, July 1991)

9-603. Police call list-eligibility to wreckers. Any person, before eligible to be listed on the police call list, shall have two (2) wreckers and shall first apply and have his application for a license approved and issued, and must comply with all of the provisions of this chapter. (Ord. #1991-28, July 1991)

9-604. Declaration of emergency. In order to provide for the proper and orderly flow of traffic upon the streets of this city, the following circumstances are declared to constitute an emergency situation requiring the immediate removal of the vehicle from the streets:

(1) When a vehicle is parked, stopped, or standing in violation of any regulation or ordinance of the city.

(2) When a vehicle is parked, stopped, or standing so as to obstruct the orderly flow of traffic.

(3) When a vehicle is so disabled by a wreck, by collision, or by accident so as to constitute an obstruction to traffic. (Ord. #1991-28, July 1991)

9-605. Removal of vehicles causing an emergency situation. Police officers of the City of Hendersonville are hereby authorized to order the removal of vehicles from public property when found in the emergency situations set forth in § 9-604 and from private property when a vehicle has been disabled by a wreck and has come to rest on private property. Removal of vehicles under these circumstances and subsequent storage shall be at the expense of the owner of the vehicle involved. (Ord. #1991-28, July 1991)

9-606. Equipment and maintenance of EWS vehicles.

(1) Inspection. Prior to the time any license shall become effective and a permit issued under the provisions of this chapter, an inspection shall be made by the police department of each EWS wrecker to be operated by the licensee to determine if the wrecker meets the requirements of this chapter and complies with all state laws and state regulations. If, upon inspection, an EWS wrecker has met all the standards established by this chapter, the city recorder may issue a permit as hereinafter provided. The mayor shall have the right to revoke or suspend or place on probation such permit if, at any time, the licensee fails to maintain the EWS wrecker for which the permit was issued in a proper condition, including the safety equipment and regulatory devices required herein. The police department shall inspect all wreckers and required safety equipment prior to the issuance or renewal of a license herein authorized.

(2) Equipment. Each EWS wrecker shall be equipped with and have available at all times all of the equipment listed below:

- (a) One (1) fire extinguisher of all 20 lb. class, ABC Underwriters Laboratory approved;
- (b) One (1) heavy duty shovel;
- (c) One (1) heavy duty push broom;
- (d) Flood lights on or near hoist, capable of illuminating a scene at night;
- (e) One (1) amber-colored rotor-beam flashing type light mounted on the top of the wrecker cab and emergency flashers and amber directional signal lights mounted on the front and rear of the wrecker unit;
- (f) Emergency transport lights;
- (g) One set of dollies; and
- (h) Orange or reflective vests for extended operations. (Ord. #1991-28, July 1991)

9-607. Designation of company name. (1) No license shall be issued to any applicant which designates as its company name a name which is the same as the name of any existing wrecker service doing business in the city.

(2) Each applicant shall designate whether or not he is a sole proprietorship, partnership, or corporation, and shall designate and disclose the names and addresses of any person having any financial interest in such EWS, by any means, directly or indirectly. (Ord. #1991-28, July 1991)

9-608. Rates and charges. The maximum fee that may be charged a vehicle operator by a licensed emergency wrecker service when the service is called by the city police department shall be \$35.00 between the hours of 7:00 A.M. and 6:00 P.M., and \$45.00 for all other hours, except that a reasonable additional charge may be made for extraordinary services rendered such as righting overturned vehicles, changing wheels use of metal-cutting equipment, or preparation of a disabled vehicle for towing or for towing trucks. Any additional charge must be based upon the additional labor required. (Ord. #1991-28, July 1991)

9-609. Display of card of rates and charges. Every wrecker licensed by the city shall have a rate card setting forth the maximum authorized rates and charges displayed prominently on each wrecker. (Ord. #1991-28, July 1991)

9-610. Receipts. The driver of any wrecker licensed by the city shall, after responding to a call from the police department, render to the operator or owner of any vehicle towed a receipt for the amount charged, which shall list the name of the EWS licensee, amount of charges, date of transaction, mileage and basis for additional charges, if any. The licensee shall keep a copy of each receipts for inspection by the city for a period of one year. (Ord. #1991-28, July 1991)

9-611. Licensee to maintain daily manifest and other requirements. (1) Every licensee shall maintain or cause to be maintained a daily manifest upon which is recorded all vehicles (including serial numbers, license numbers, year and make of the vehicle) transported or towed every day showing the time and place or origin and destination of each trip, mileage and the amount of charge or rate. Every licensee shall retain and preserve all manifests in a safe place for at least two calendar years next preceding the current calendar year, and such manifests shall be made available to the city chief of police, or any one of his designated police officers, at all times.

(2) Any person shall, when under order of the city's police department, hold any vehicle until the order to hold is released. (Ord. #1991-28, July 1991)

9-612. Accident reports and other theft and loss reports. All accidents arising from or in connection with the operation of any wreckers which result in injury to any person or damage to any property in any amount shall be reported to the city police department within twenty-four hours.

If any person makes any complaint with any wrecker service that any property is missing or has been stolen from any vehicle in its custody, the complaint shall be immediately reported to the city police department. (Ord. #1991-28, July 1991)

9-613. Wishes and desires of vehicle owners or operator and police officers to be followed. The driver of a wrecker shall in all cases, before moving the vehicle to be towed, ask of the owner or operator of such vehicle the place to which he desires the vehicle to be taken and shall so transport the vehicle, if no other place is designated, the vehicle may be towed or transported to the wrecker operator's storage lot. The driver of the wrecker shall

tow the vehicle to any place designated by the owner of the vehicle, unless the police believe the vehicle has been involved in a crime. It shall be unlawful for the owner of a wrecker or an agent or employee of a wrecker owner to coerce or insist that any owner or operator of a vehicle utilize the services of any particular repair company.

If the owner or operator of a vehicle is not available and a wrecker has been summoned by an officer or the city police department as a result of a parking violation, then the vehicle to be transported or removed shall be taken to the licensee's tow-in lot.

The licensee, wrecker service personnel, drivers and helpers shall promptly comply and obey all orders of the police officers on the scene of any accident. (Ord. #1991-28, July 1991)

9-614. Prohibited acts. It is hereby declared that the following acts shall be prohibited and unlawful by any person:

(1) For the driver of any wrecker to proceed with his wrecker to any place where a wreck has occurred unless called to the scene of the situation by a vehicle owner or the police.

(2) For any owner, operator, licensee, driver or driver helper or employee to intercept or respond to any telephone, radio, or other communication or call for wrecker service made or directed to another licensee or wrecker service.

(3) For the owner, operator, licensee, driver or driver helper of any wrecker to drive along any street or bridge to solicit towing work.

(4) For any person, licensee operator, driver, driver helper of employee to violate any of the provisions of this chapter, the laws of the state, or any special orders of the mayor.

(5) To fail to comply with all reasonable and lawful requests of the owner or operator of the vehicle to be towed as to destination.

(6) To interfere with the orderly flow of traffic along the public thoroughfares, except upon the direction of the city police department or any other authorized law enforcement agency.

(7) To demand or receive from any person any pay for transporting a vehicle upon request of the city police department in excess of the proper fare for transporting the vehicle in accordance with the schedule of rates and charges provided for herein.

(8) To fail to comply with any of the provisions of this chapter or to fail to comply with the laws of this city, the State of Tennessee, or the United States.

(9) To transport a vehicle other than by the most direct safe route and without delay from the point of pick-up to the assigned destination.

(10) To install or use a siren on any wrecker.

(11) No person engaged in the business of providing wrecker service or any of its employees or agents shall perform any act gratuitously or give any gratuity to any police officer for any purpose, nor shall any police officer solicit business for any person engaged in the wrecker business under any circumstances.

(12) To fail to reply or respond to a call by the city police department for a wrecker.

(13) To operate a wrecker or allow a wrecker to be operated in careless, reckless, or dangerous manner so as to endanger any property or person. (Ord. #1991-28, July 1991)

9-615. Unlawful acts of other licensed and non-licensed persons. It is hereby declared to be unlawful for any person to knowingly or willfully summon a wrecker or to report that a wrecker is needed when such person knows that the services of a wrecker are not needed. (Ord. #1991-28, July 1991)

9-616. Wrecker driver to clean streets when removing wrecker vehicle. Whenever any driver of a wrecker removes a motor vehicle from the scene of an accident on the public streets or thoroughfares within the geographical jurisdiction of this city, it shall be the duty of such driver to simultaneously remove and carry away from the public thoroughfares as a result of the accident after the city's police officers have completed their investigation of the accident or at such time as the police officer on the scene directs. (Ord. #1991-28, July 1991)

9-617. City authorized to contract with licensee in certain instances. The mayor is hereby authorized to contract with any licensee, owner, or operator or combination of such for the payment for the towing, transporting or otherwise removing of:

- (1) Any vehicle left parked unattended in one place or upon any thoroughfare within the area of this city for a period of two consecutive days.
- (2) Any vehicle left parked on any thoroughfare within the area of this city without current registration. (Ord. #1991-28, July 1991)

9-618. Licenses-required. No person or company shall be listed on the police call list unless licensed as an Emergency Wrecker Service. No wrecker service shall be prohibited from operating an unlicensed wrecker service by direct contract with the owners of the vehicles involved. All wrecker services, whether licensed or unlicensed by the city, shall have all licenses required by the state. (Ord. #1991-28, July 1991)

9-619. Application-police officers and other financial interest prohibited and other requirements. Any person desiring to engage in the business of furnishing Emergency Wrecker Service shall make application to the city recorder of this city, which application shall be upon blank forms to be provided by the city recorder. The application must contain all of the information required by the form and must be verified under oath. The form to be adopted and provided by the city shall contain:

- (1) The full name and address of the person, firm or corporation desiring to obtain a license and whether or not he be the owner of the proposed wrecker and towing operation and the names of all parties owning an interest therein.
- (2) A description of each wrecker including the make, model, year of manufacture, lifting capacity, state license number for the current year, motor and chassis number and the length of time each wrecker has been in use. No license authorized hereunder shall be issued or become effective until the proposed licensee has furnished the city a record identifying each wrecker to be used in the proposed wrecker or towing operation.

(3) The location and description of the place and premises from which the wrecker or towing service will be operated.

(4) A statement by the applicant that he is of good moral character and that he is ready, willing, and able to comply with all the provisions of this chapter, the laws of this city and state, and any special orders issued by the mayor in the manner as provided in the chapter and a statement that he has read and understands such laws, chapter, rules and regulations and special orders.

(5) A certification that the applicant will list with the city recorder the names, home addresses and telephone numbers, and ages of all employees, including replacements and additions employed by the applicant in the business of operating a wrecker or towing service.

(6) A statement describing the space where the applicant intends to store all motor vehicles towed, or otherwise removed, and how the storage facility is fenced and is protected, and a statement by the applicant that a responsible adult will be on the premises twenty-four hours a day, seven days a week, during each year and each year thereafter, while any vehicle belonging to any person is being stored thereon, or that all such vehicles will be secured by a locked fence, except vehicles owned by the licensee or his employees.

(7) A certification that the applicant intends to comply with the mandatory rates and charges herein provided.

(8) A certification that the applicant will maintain in full force and effect insurance hereinafter required. (Ord. #1991-28, July 1991)

9-620. Issuance-license, etc. If the city recorder finds, upon examination, that the applicant is qualified to furnish Emergency Wrecker Service and conform to the provisions of this chapter, then the city recorder shall issue to the applicant a license to operate a EWS service. The license shall state the name and address of the licensee, the number of wreckers authorized upon such license, and date of issuance. A license number shall be assigned to each wrecker. (Ord. #1991-28, July 1991)

9-621. Term and non-transferability of license-fees. A license issued by the city to any person permitting such person to operate an Emergency Wrecker Service (EWS) shall be issued for a period of one (1) year at a fee of \$15.00. Each licensee will then be placed upon the city's police call list. A license granted hereunder shall not be sold, assigned, mortgaged, or otherwise encumbered or transferred and shall expire immediately upon the licensee terminating the wrecker service or upon revocation by the city. A current license shall be permanently and conspicuously displayed at all times upon the premises from which the licensee operates a wrecker or wrecker service. (Ord. #1991-28, July 1991)

9-622. Indemnity bond or liability insurance required. (1) No license shall be issued, or continue in effect, unless there is in full force and effect an indemnity bond executed by the licensee and insuring to the benefit of any persons who shall be injured or who shall sustain damage to their property caused by the licensee, his agents, or employees. Such bond shall have as its limits an amount no less than one hundred thousand dollars (\$100,000.00) for bodily injury to any one person, and amount no less than three hundred

thousand dollars (\$300,000.00) for injuries to more than one person which are sustained in the same accident and an amount no less than fifty thousand dollars (\$50,000.00) for property damage resulting from any one accident. The bond shall be filed with the city recorder and subject to the approval of the city attorney and shall have as a surety thereon a surety company authorized to do business in the State of Tennessee.

(2) In lieu of a bond, the licensee shall maintain in full force and effect, a liability insurance policy. Such policy of insurance shall conform to all of the provisions of this section relating to bonds, and shall include a provision that, in the event of a proposed cancellation by the insurance company, the mayor and city recorder shall be notified in writing at least thirty (30) days prior to the date of the cancellation.

(3) The applicant for a license, prior to the issuance and the effective date thereof, shall take out and maintain during the term of the license garage keeper's liability insurance concerning fire, theft, explosion, collision, vandalism, and malicious mischief with insurance limits of not less than fifty thousand dollars (\$50,000.00), and such insurance policy shall cover all property in the licensee's care, custody, and control.

(4) Each EWS shall be liable to the owner of the vehicle involved for any theft loss for vehicles or parts thereof stored at the direction of the City of Hendersonville. Each EWS shall post a \$1,500 cash or indemnity bond or an irrecoverable letter of credit from a bank with the city recorder to cover theft losses. Cash bonds shall be deposited by the city in a local bank at interest which shall inure to the benefit of the EWS posting the bond.

(5) Every licensee shall execute an agreement to indemnify and hold harmless the city from liability resulting from the acts or omissions of the licensee. (Ord. #1991-28, July 1991)

9-623. Public hearings and appeals-license and permits. Any person whose emergency wrecker service license application has been denied, or whose license is proposed to be revoked, suspended, placed on probation or denied renewal, may request by certified mail a public hearing before the city judge to contest any action or proposed action or denial by the mayor; provided, however, that no adverse action against a licensee shall take effect until the licensee has been given written notice of the proposed adverse action by the mayor, and at least five (5) calendar days to request a hearing. A timely request for a hearing shall stay the proposed adverse action pending the hearing. An applicant denied a license shall have five (5) days from the date of denial to request a hearing.

Any person may request, by certified mail, a public appeal before the city judge to contest any action or proposed action or refusal by the mayor. Such a hearing shall be requested before the aggrieved party pursues any other remedy. Any such request shall set forth the action of the mayor which the aggrieved party opposes and the reasons why the aggrieved party does not believe the actions of the mayor were legal. Thereafter, the mayor shall grant to the aggrieved party a public hearing and shall fix the time and place within thirty (30) days for the hearing and shall notify the applicant, licensee, or aggrieved party. The mayor shall then designate the city judge to hear the appeal and preside at the hearing. The city attorney shall be present to represent the city at such hearing. The appellant shall first present its case, and thereafter the city may present its case. Upon the request of the applicant or licensee to the city judge for specific findings, such request shall be reduced in

writing and made at the time of the hearing and the city judge shall then set forth his findings in his order, and the city judge may impose such conditions consistent with provisions, purpose, and intent of this chapter.

In the event such applicant or licensee should decide to take an appeal from the city judge's ruling order or findings, then he may do so by statutory certiorari, however, any new evidence not offered or presented to the city judge at the hearing must be presented to the judge by motion to rehear before resorting to statutory certiorari in the state courts, and if the applicant or licensee does not first offer to present such new evidence, by written motion to rehear before the city judge, then it shall be deemed waived. (Ord. #1991-28, July 1991)

9-624. Granting, suspension and revocation of licenses and permits. The mayor is also authorized and empowered to refuse to grant, suspend, revoke, place on probation, or refuse to renew any license or permit applied for or granted to any person under the provisions of this section for any of the following reasons:

(1) If the applicant therefor or the holder thereof obtained the license by fraud or misrepresentation or has been convicted of a crime involving moral turpitude.

(2) If the applicant therefor or the holder thereof operates or shall operate a wrecker business or any part thereof at a location where such business operation is not permitted by the zoning regulations in effect by this city.

(3) If the applicant therefor or the holder thereof shall fail to provide capable, qualified, prompt, or courteous wrecker service to residents of the city and the public generally.

(4) If the applicant therefor or the holder thereof shall fail to take out and maintain in full force and effect during the period for which the license has been issued, the indemnity bonds or policies of insurance for the specified amounts and under the terms and conditions as required by this chapter.

(5) If the applicant therefor or the holder thereof shall be or become financially irresponsible or shall at any time declare bankruptcy, whether voluntary or involuntary.

(6) If the applicant therefor or the holder thereof shall violate the fee schedule by over-charging or has violated any of the provisions of this chapter. (Ord. #1991-28, July 1991)

9-625. Drivers, driver's helpers, and employees-generally. Each licensee's wrecker shall be driven by a competent driver licensed by the state and holding an appropriate license, issued by the state, for the wrecker being operated.

No licensee shall permit any of its wrecker drivers, driver helpers, agents, servants, or employees to engage, while operating a wrecker or wrecker service, in activities or practices contrary to the public safety or welfare or contrary to the proper discharge of his duties in the course of his employment. Each licensee shall be responsible for its employees and shall insure that each employee complies with the provisions of this chapter and with the provisions of the laws of the city, the state and the United States. (Ord. #1991-28, July 1991)

9-626. Police call list. (1) A "Police call list" shall be established and maintained of and limited to those emergency wrecker services that have applied for and obtained and who have kept in full force and effect all of the licenses and permits required by this chapter.

(2) All calls for Emergency Wrecker Service shall be rotated equitably among the licensees, except in those instances where the owner or operators of the vehicles involved have requested a specific wrecker service or a specific wrecker service is not capable of providing the service required due to limited size of the licensee's wrecker. Rotation of calls shall be from licensed wrecker service to licensed wrecker service.

(3) No provision in this chapter shall be construed as prohibiting the city police department from calling other wrecker service, whether licensed or not and whether situated in this city's jurisdiction, in the event of any unusual emergency or when any EWS is not available within a reasonable period of time. Reasonable and unusual emergency, the determination of the same, being in the discretion of the city's highest ranking police officer on duty at that time. (Ord. #1991-28, July 1991)

9-627. Penalties. Any person violating any of the provisions of this chapter shall upon conviction be subject to a fine of not more than five hundred dollars (\$500.00); and a separate offense shall be considered committed upon each day during or on which a violation occurs or continues. (Ord. #1991-28, July 1991, modified)