

## TITLE 9

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

#### CHAPTER

1. PEDDLERS, ETC.
2. CHARITABLE SOLICITORS.
3. YARD SALES.
4. ADULT-ORIENTED ESTABLISHMENTS.

#### CHAPTER 1

### PEDDLERS, ETC.<sup>2</sup>

#### SECTION

- 9-101. Permit required.
- 9-102. Exemptions.
- 9-103. Application for permit.
- 9-104. Issuance or refusal of permit.
- 9-105. Appeal.
- 9-106. Bond.
- 9-107. Loud noises and speaking devices.
- 9-108. Use of streets.
- 9-109. Exhibition of permit.
- 9-110. Police officers to enforce.
- 9-111. Revocation or suspension of permit.
- 9-112. Reapplication.
- 9-113. Expiration and renewal of permit.

**9-101. Permit required.** It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the Town of Alamo without first obtaining a permit in compliance with the provisions of this

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and residential regulations: title 12.  
 Junkyards: title 13, chapter 2.  
 Liquor and beer regulations: title 8.  
 Noise reductions: title 11, chapter 4.  
 Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 5, chapter 3.

chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1965 Code, § 5-201)

**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. (1965 Code, § 5-202)

**9-103. Application for permit.** Applicants for a permit under this chapter must file with the town 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 inches (2") 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 evaluate properly 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; and
- (10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1965 Code, § 5-203)

**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 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

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 recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-106. The recorder shall keep a permanent record of all permits issued. (1965 Code, § 5-204)

**9-105. Appeal.** Any person aggrieved by the action of the chief of police and/or the 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 recorder 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. (1965 Code, § 5-205)

**9-106. Bond.** Every permittee shall file with the town recorder a surety bond running to the town 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 the town 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 town 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 town 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. (1965 Code, § 5-206)

**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 town 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. (1965 Code, § 5-207)

**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 the 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. (1965 Code, § 5-208)

**9-109. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any police officer or citizen. (1965 Code, § 5-209)

**9-110. Police officers to enforce.** It shall be the duty of all police officers to see that the provisions of this chapter are enforced. (1965 Code, § 5-210)

**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; or

(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 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 permit shall be given by the 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. (1965 Code, § 5-211)

**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. (1965 Code, § 5-212)

**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. (1965 Code, § 5-213)

## CHAPTER 2

### CHARITABLE SOLICITORS

#### SECTION

- 9-201. Permit required.
- 9-202. Application for permit.
- 9-203. Prerequisites for a permit.
- 9-204. Denial of a permit.
- 9-205. 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 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. #\_\_\_, May 1986)

**9-202. Application for permit.** Any person desiring to solicit any contribution within the corporate limits of the Town of Alamo, shall apply to the town recorder for a permit.

(1) The application will be made in writing on a form provided by the Town of Alamo at the town hall.

(2) The application for the permit will be made not less than fifteen (15) days in advance of the date on which the applicant proposes to solicit contributions.

(3) A permit will be valid only for the date for which it is issued, and only for the organization or person to which it is issued.

(4) A permit will be valid only for the specific place or places for which it is issued.

(5) Each person or organization to which a permit is issued will be required to make a written report to the town recorder within seventy-two (72) hours after the expiration of the permit, detailing the exact amount of all funds collected pursuant to the permit, and the exact disposition that has been made or that will be made of the funds.

(6) The town recorder will prepare an application form, and a reporting form, which will be used pursuant to this chapter. (Ord. #\_\_\_, May 1986)

**9-203. Prerequisites for a permit.** The recorder may issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds all of the following:

- (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;
- (6) The solicitation will not interfere with traffic, vehicular or pedestrian, nor will it be a nuisance or interfere with the health, welfare or quiet enjoyment of the community; and
- (7) It will not employ any sound amplification equipment. (Ord. #\_\_\_, May 1986)

**9-204. 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 ten (10) days after he makes application therefor. (Ord. #\_\_\_, May 1986)

**9-205. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any police officer or person solicited. (Ord. #\_\_\_, May 1986)

## CHAPTER 3

### YARD SALES

#### SECTION

- 9-301. Definitions.
- 9-302. Property permitted to be sold.
- 9-303. Permitted number of yard sales per year.
- 9-304. Hours of operation.
- 9-305. Display of sale property.
- 9-306. Advertising, signage.
- 9-307. Public nuisance.
- 9-308. Inspection.
- 9-309. Parking.
- 9-310. Persons exempted from this chapter.

**9-301. Definitions.** For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

(1) "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.

(2) "Yard sale" shall mean and include all general sales, open to the public, conducted from or on a residential premise in any zone, as defined by the town zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "auction," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than two (2) specific items are held out for sale and all advertisements of such sale specifically names those items to be sold. (Ord. #5-4-2015D, May 2015)

**9-302. Property permitted to be sold.** It shall be unlawful for any individual to sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. #5-4-2015D, May 2015)

**9-303. Permitted number of yard sales per year.** It shall be unlawful for any resident and/or family household to conduct more than three (3) yard sales during any one (1) calendar year. If members of more than one (1) residence and/or family household join in the operation of a garage sale, it shall be considered as a garage sale for each and all such residences and/or family households. (Ord. #5-4-2015D, May 2015)



**9-304. Hours of operation.** Such yard sales shall be limited in time to no more than the daylight hours of two (2) consecutive days. (Ord. #5-4-2015D, May 2015)

**9-305. Display of sale property.** Personal property offered for sale may be displayed within the residence, porch, in a garage, carport, and/or in any yard, but shall not be permitted within the public rights-of-way. (Ord. #5-4-2015D, May 2015)

**9-306. Advertising, signage.** (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale.

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

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

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than twelve (12) hours prior to the commencement of such a sale.

(3) Removal of signs. Signs must be removed within one (1) hour upon the conclusion of the sale. (Ord. #5-4-2015D, May 2015)

**9-307. Public nuisance.** Individuals conducting a yard sale and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit loud or boisterous conduct on said premises. All such individuals shall obey the reasonable order of any member of the police or fire departments of the Town of Alamo, in order to maintain the public health, safety, and welfare. (Ord. #5-4-2015D, May 2015)

**9-308. Inspection.** The zoning or code enforcement officer, a police officer, or any other officials designated by the board of mayor and aldermen, shall have the right of entry upon any premises showing evidence of a yard sale, for the purpose of enforcement of this chapter and shall make inspections to enforce the same and shall have the right to issue citations for violations of this chapter. (Ord. #5-4-2015D, May 2015)

**9-309. Parking.** All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances of the Town of Alamo. Further, the police department may enforce such temporary controls to alleviate any special

hazards and/or congestion created by any yard sale. (Ord. #5-4-2015D, May 2015)

**9-310. Persons exempted from this chapter.** The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

(2) Persons acting in accordance with their powers or duties as public officials;

(3) Any sale conducted by any merchant or mercantile or other business establishment, firm or at a place of business wherein such sale would be permitted by the zoning regulations of the Town of Alamo or under the protection of the non-conforming use section thereof or any other sale conducted by a manufacturer, dealer, or vendor, and which sale would be conducted from property zoned premises and not otherwise prohibited in other ordinances;

(4) Persons acting in accordance with their responsibilities as court-appointed decedents' personal representatives; or

(5) Any bona fide charitable, educational, cultural, or governmental institution, or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis. (Ord. #5-4-2015D, May 2015)

## CHAPTER 4

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. License required.
- 9-404. Application for license.
- 9-405. Standards for issuance of license.
- 9-406. Permit required for all employees.
- 9-407. Application for permit for employees.
- 9-408. Standards for issuance of employee permit.
- 9-409. Fees.
- 9-410. Display of license or permit.
- 9-411. Renewal of license or permit.
- 9-412. Revocation or suspension of license or permit.
- 9-413. Hours of operation.
- 9-414. Responsibilities of the operator.
- 9-415. Prohibitions and unlawful sexual acts.
- 9-416. Violations and penalty.

**9-401. Purpose.** It is the purpose of this chapter to regulate sexually-oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually-oriented businesses within the town. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. (Ord. #2018-12, Nov. 2018)

**9-402. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and

in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the Internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(5) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, massage parlor, modeling studio or any other term of like import.

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Alamo, Tennessee.

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

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

(9) "Operator" means any person or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(10) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered: Human genitals, pubic region; buttocks; female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (Ord. #2018-12, Nov. 2018)

**9-403. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Alamo without first obtaining a license to operate issued by the Town of Alamo.

(2) A license may be issued only to a natural person for one (1) adult-oriented establishment located at a fixed and certain place. The building proposed as the site of the adult-oriented business shall be inspected by the Alamo Fire Department and must meet all reasonable conditions imposed by the fire chief.

(3) No license or interest in a license may be transferred from a licensed operator to any other person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty day period,

then such existing adult-oriented establishment shall cease operations. (Ord. #2018-12, Nov. 2018)

**9-404. Application for operator's license.** (1) Any person desiring to secure a license shall make application to the Town of Alamo Recorder.

(2) The application for a license shall be upon a form provided by the town recorder. An applicant for a license must be the sole owner of the business and shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, town or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or town ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant.
- (j) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (k) The length of time the applicant has been a resident of the Town of Alamo, or its environs, immediately preceding the date of the application.
- (l) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (m) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(n) Evidence in form deemed sufficient to the mayor that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(o) Sworn statement that the applicant is the sole owner of the business.

(p) Copy of the applicant's driver's license.

(q) Proof of the applicant's citizenship.

(r) Proposed name of the establishment and/or business.

(3) Within thirty (30) days of receiving the results of the investigation conducted by the Alamo Police Department, the town recorder shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed and additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the town recorder shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of any zoning permit by the board of mayor and aldermen.

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the town recorder.

(5) No operator's permit shall be issued by the town recorder without a public vote of approval of the board of mayor and aldermen. (Ord. #2018-12, Nov. 2018)

**9-405. Standards for issuance of license.** (1) To receive a license to operate an adult oriented establishment, the applicant must meet all standards required in this chapter. No license shall be issued unless the Alamo Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the town recorder no later than thirty (30) days after the date of the application.

(2) All zoning permits must be properly approved before an operator's license is granted.

(3) The establishment owner (licensee) must also be the operator of the business.

(4) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments, all requirements of the zoning ordinance are complied with, and is not located within one thousand five hundred feet (1,500') of a residence, place of public assembly, school, or church.

(5) No license will be issued to any adult-oriented establishment that offers for sale food prepared on site or any form of alcohol beverage including beer.

(6) No license will be issued to any operator if the name of the business contains any suggestion of human genitals, sexual or erotic acts or fantasies, unless the operator agrees that the business names is used and displayed only inside the establishment and is not advertised outside or in any other place where it might be viewed by minors. (Ord. #2018-12, Nov. 2018)

**9-406. Permit required for all employees.** In addition to the license requirements previously set forth for the owner/operator of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the town recorder. (Ord. #2018-12, Nov. 2018)

**9-407. Application for permit for employees.** (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the town recorder. The application shall be filed in triplicate with and dated by the town recorder. A copy of the application shall be distributed promptly to the police chief and to the applicant.

(2) The application for a permit shall be upon a form provided by the town recorder. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other town or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or town ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.



(i) The length of time the applicant has been a resident of the Town of Alamo, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

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

(4) Whenever an application is denied or held for further investigation, the town recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at a regular scheduled board meeting at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the town recorder. (Ord. #2018-12, Nov. 2018)

**9-408. Standards for issuance of employee permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Alamo Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the town recorder not later than thirty (30) days after the date of the application. The town recorder will determine if the applicant has complied with every aspect of this ordinance prior to issuance of a license or permit. (Ord. #2018-12, Nov. 2018)

**9-409. Fees.** (1) A license fee of two thousand five hundred dollars (\$2,500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee for an employee or entertainer of one hundred fifty dollars (\$150.00) shall be submitted with the application for a permit. If the application is denied the fee shall not be returned. (Ord. #2018-12, Nov. 2018)

**9-410. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Alamo Police Department, or any person designated by the board of mayor and aldermen. (Ord. #2018-12, Nov. 2018)

**9-411. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the town recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed with and dated by the town recorder. The application for renewal shall be a form provided to the town recorder and shall contain such information and data, given under oath or affirmation, as may be required by the Board of mayor and aldermen.

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

(3) If the Alamo Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the town recorder.

(4) Every employee permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the town recorder. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in with and dated by the town recorder. The application for renewal shall be upon a form provided by the town recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred fifty dollars (\$150.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty hundred dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied none of the fee shall be returned.

(6) If the Alamo Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the town recorder. (Ord. #2018-12, Nov. 2018)

**9-412. Revocation or suspension of license or permit.** (1) The town recorder shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of mayor and aldermen pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the mayor or his designee shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Crockett County Health Department, the Tennessee Department of Health, or the Alamo Fire Department.

(i) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The town recorder, before revoking any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of a license.

(5) If the operator files suit in court to contest the revocation or non-renewal of a license and the court upholds the revocation or non-renewal, the owner shall be responsible for paying the cost of the Town of Alamo legal defense.

(6) The town recorder may suspend a license or permit for up to three (3) days without prior notice to the operator or the employee, as the case may be, for violation of any provision of this section. (Ord. #2018-12, Nov. 2018)

**9-413. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 1:00 AM. and noon Monday through Saturday, and between the hours of 1:00 AM. and 6:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Alamo Police Department, the Crockett County Sheriff's Department, or such other persons as the Board of Mayor and Aldermen may designate. (Ord. #2018-12, Nov. 2018)

**9-414. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, portrait photograph of two inches by two inches (2" x 2"), phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the Board of Mayor and Aldermen. The above information on each employee shall be maintained in the register on the premises for a period of five (5) years following termination.

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

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Alamo Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

"The Town of Alamo Municipal Code regulates this Adult-Oriented Establishment.

1. Entertainers and other employees are Not permitted to engage in any type of sexual conduct.
2. Entertainers and other employees are Not permitted to expose their sex organs.
3. Entertainers are Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.
4. Alcoholic beverages are not permitted on these premises." (Ord. #2018-12, Nov. 2018)

**9-415. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(4) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (Ord. #2018-12, Nov. 2018)

**9-416. Violations and penalty.** (1) Any person other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. #2018-12, Nov. 2018)