

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

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9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler," means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from

¹Municipal code references

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

Cable television: title 20, chapter 1.

Liquor and beer regulations: title 8

Noise reductions: title 11, chapter 4.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 6.

Trespass by peddlers, etc.: section 10-801.

street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

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

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

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

(b) Is a member of United Way, Community Chest or similar "umbrella" organization for charitable or religious organizations. (c) Has been in continued existence as a charitable or religious organization in Anderson County for a period of two (2) years prior to the date of its application for registration under this chapter.

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

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

(6) "Street barker," means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys delivering newspaper subscriptions, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold, nor to religious, charitable and civic organizations of Anderson County, Tennessee that solicit no more than four (4) times per year, or vendors at Anderson County Chamber sponsored festivals. (as replaced by Ord. #454, Aug. 2004, and Ord. #459, Oct. 2004)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

¹State law references

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, section 67-4-709(a)(19). Note also that Tennessee Code Annotated, section 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, section 67-4-709(b).

9-104. Permit procedure. (1) Application form. A sworn application shall be completed and filed with the city recorder by each applicant for a permit, providing the following information:

(a) Applicants for a permit as a peddler, transient vendor, solicitor or street barker, and as a solicitor for subscriptions, shall provide the following information:

(i) Complete name of applicant, date of birth, social security or other identification number, and physical description.

(ii) Applicant's permanent home address and telephone number.

(iii) Applicant's current address and telephone number.

(iv) Applicant's current business address and telephone number.

(v) A copy of the applicant's current photo identification (driver's license or other acceptable photo identification).

(vi) A list of all persons, including the name, date of birth, social security or other identification number, and driver's license or other acceptable photo identification of all persons who will make sales or solicitations in conjunction with the permit.

(vii) A list of all vehicles, vehicle description, vehicle license and registration information of all vehicles (whether or not the vehicle is owned individually by the person making the sales or solicitations, by the business or organization itself, or rented or borrowed) that will be used in conjunction with the sales or solicitations in conjunction with this permit.

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

(ix) A statement as to whether or not the applicant (and all persons associated with the permit) has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(x) A list of the last three (3) cities, towns or other political subdivisions (if that many) where the applicant has engaged in business or conduct similar to that proposed in this application, immediately preceding the date of this application.

(b) Applicant's for a permit as a solicitor for charitable or religious purposes shall provide the following information:

(i) Applicant's (organization's) name, permanent address, and telephone number.

(ii) Applicant's (organization's) contact person and telephone number.

(iii) Reason/purpose for the solicitation.

(iv) If the permit is for a "road block" solicitation, the applicant must also comply with the requirements of § 9-105 (3) of the Clinton Municipal Code.

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

(d) The location(s) in which the applicant proposes to do business or make solicitations.

(e) Tennessee state sales tax number, if applicable.

(f) (Reserved).

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, or solicitor shall submit with his application a nonrefundable fee of \$100.00. Each applicant for a permit as a street barker or solicitor for subscriptions shall submit a nonrefundable fee of \$50.00. There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Issuance or refusal of permit. (a) The city recorder shall refer each application for permit to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(b) 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.

(c) If as a result of such investigation the chief reports the applicant's moral reputation and business responsibility are satisfactory, the city recorder shall issue the permit, and provide a copy of the permit to the applicant and the chief of police. (as replaced by Ord. #434, June 2002)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, for charitable purposes, or solicitor for subscriptions shall:

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors

Prohibited," or similar language carrying the same meaning, is located. (as amended by Ord. #401, May 2000, and Ord. #429, April 2002, and replaced by Ord. #453, July 2004)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension or revocation by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained or omitted in the application for permit, or made in the course of carrying out the business as defined in the permit application.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.
- (d) Conducting the business as defined in the permit application in an unlawful manner or in such 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) Appeal of suspension or revocation. Any applicant whose permit has been issued in accordance with the requirements under this chapter which has been suspended or revoked by the city recorder may appeal such suspension or revocation to the city council. Upon such appeal and after notice thereof, city council shall schedule a hearing to hear testimony on behalf of the permit holder and the city in regards to said suspension or revocation. Notice of the hearing shall include the grounds for which the permit application, at least (5) business

days prior to the date set for the hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) business days prior to the date set for the hearing.

(3) Action of city council. The city council, at the hearing as defined in § 9-108 (2) shall have the authority to uphold the actions of the city recorder, or reinstate the suspended or revoked permit as deemed appropriate by a majority vote of council. Such action of city council shall be final. (as replaced by Ord. #434, June 2002)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for three (3) months. The permit of street barkers shall be issued for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for subscriptions shall expire thirty (30) days after issuance. The permit for solicitors for charitable or religious purposes shall expire at the conclusion of the event/occasion for which the permit is issued. (as replaced by Ord. #434, June 2002)

9-110. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances.

CHAPTER 2

TAXICABS

SECTION

- 9-201. Taxicab franchise and privilege license required.
- 9-202. Requirements as to application and hearing.
- 9-203. Liability insurance required.
- 9-204. Revocation or suspension of franchise.
- 9-205. Mechanical condition of vehicles.
- 9-206. Cleanliness of vehicles.
- 9-207. Inspection of vehicles.
- 9-208. License and permit required for drivers.
- 9-209. Qualifications for driver's permit.
- 9-210. Revocation or suspension of driver's permit.
- 9-211. Drivers not to solicit business.
- 9-212. Parking restricted.
- 9-213. Drivers to use direct routes.
- 9-214. Taxicabs not to be used for illegal purposes.
- 9-215. Miscellaneous prohibited conduct by drivers.
- 9-216. Transportation of more than one passenger at the same time.

9-201. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1969 Code, sec. 5-401)

9-202. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the governing body; and make a recommendation to either grant or refuse a franchise to the applicant. The governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space

requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1969 Code, sec. 5-402)

9-203. Liability insurance required. No taxicab franchise shall be issued or continue in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the minimum of twenty-five thousand dollars (\$25,000.00) for bodily injury or death to any one person, fifty thousand dollars (\$50,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and twenty-five thousand dollars (\$25,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be canceled except after at least ten (10) days' written notice is given by the insurer to both the insured and the recorder of the municipality. Increased amount shall take effect on the anniversary date of each owner's policy. (1969 Code, sec. 5-403, as amended by Ord. No. 109)

9-204. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for traffic violations or violations of this chapter by the taxicab owner or any driver. (1969 Code, sec. 5-404)

9-205. Mechanical condition of vehicles. It shall be unlawful for any taxicab to operate in the municipality unless it is equipped with four (4) wheel brakes, front and rear light, safe tire, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1969 Code, sec. 5-405)

9-206. 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. (1969 Code, sec. 5-406)

9-207. Inspection of vehicles. All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the

requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1969 Code, sec. 5-407)

9-208. 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. The city permit shall cost one dollar (\$1.00) and shall expire on the 30th day of June of each calendar year. It shall bear on its face a photograph of the permittee, the number of his permit, the expiration date thereof, and such other information as the recorder shall direct. The driver's permit shall be conspicuously displayed in the taxicab at all times while such cab is in operation. (1969 Code, sec. 5-408)

9-209. Qualifications for driver's permit. No person shall be issued or allowed to retain a taxicab driver's permit unless he complies with the following to the satisfaction of the city recorder:

(1) Makes written application (accompanied by two (2) recent, 2 inch by 2 inch, head and shoulder photographs of the applicant) to the city recorder.

(2) Is at least twenty-one (21) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from three (3) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, a crime involving moral turpitude, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(7) Is familiar with the state and local traffic laws. (1969 Code, sec. 5-409)

9-210. Revocation or suspension of driver's permit. The city recorder, after a public hearing, may revoke or suspend any taxicab driver's permit for violating this chapter, having his state chauffeur's license revoked, wilfully and/or persistently violating any of the other provisions of this code, or for becoming unfit physically or morally to operate a taxicab. (1969 Code, sec. 5-410)

9-211. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon streets of the municipality for the purpose of obtaining patronage for their cabs. (1969 Code, sec. 5-411)

9-212. 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. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1969 Code, sec. 5-412)

9-213. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destination by the most direct available route. (1969 Code, sec. 5-413)

9-214. 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. (1969 Code, sec. 5-414)

9-215. 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 disturb the peace, quiet, and tranquility of the municipality in any way. (1969 Code, sec. 5-415)

9-216. 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. (1969 Code, sec. 5-416)

CHAPTER 3

POOL ROOMS¹

SECTION

- 9-301. Prohibited in residential areas.
9-302. Hours of operation regulated.
9-303. Minors to be kept out; exception.
9-304. Gambling, etc., not to be allowed.

9-301. 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. (1969 Code, sec. 5-501)

9-302. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time except as follows: Monday thru Thursday 9:00 a.m. thru 11:00 p.m.; Friday and Saturday 9:00 a.m. thru 12:00 midnight; Sunday 1:00 p.m. thru 6:00 p.m. (1969 Code, sec. 5-402; as replaced by Ord. No. 263; and further replaced by Ord. #351, Nov. 1993)

9-303. 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 person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residence. (1969 Code, sec. 5-503, as replaced by Ord. #351, Nov. 1993)

9-304. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1969 Code, sec. 5-504)

¹For privilege tax provisions, etc.: see title 5.

CHAPTER 4

CLINTON FAIR HOUSING OPPORTUNITIES ORDINANCE¹

SECTION

9-401. Short title.

9-402. Definitions.

9-403. Scope and application.

9-404. Conciliation process.

9-405. Fair housing opportunity procedures manual.

9-401. Short title. This chapter shall be known as the Clinton Fair Housing Opportunities Ordinance. (as added by Ord. No. 147)

9-402. Definitions. As used in this ordinance: (1) "Agency" means board of housing appeals.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(6) "Discriminatory housing practice" means an act that is unlawful under this ordinance. (as added by Ord. No. 147)

9-403. Scope and application. This chapter shall be applicable as follows:

(1) Nothing in this ordinance shall apply to:

(a) Any single-family house sold or rented by an owner, provided, that such private individual owner does not own more than three (3) such single-family houses at any one time; and, provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this section shall apply only with respect to one such sale within any twenty-four (24) month period; and, provided

¹Municipal code reference

Housing and other related codes: title 12.

further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) single-family houses at any one time; and, provided further, the sale or rental of any such single-family house shall be excepted from the application of this section only if such house is sold or rented, (1) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and (2) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of paragraph 4(c) of this section; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(2) For the purposes of this chapter, a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(3) Nothing in this ordinance shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operated for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin. Nor shall anything in this ordinance prohibit a private club, not in fact opened to the public, which as an incident to its primary purpose or purposes provided lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(4) Except as exempted by paragraphs 1 and 3 of this section, it shall be unlawful:

(a) To refuse to sell or rent after making of bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, or national origin.

(c) To make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, or national origin, or an intention to make any such preference, limitation or discrimination. (d)

To represent to any person because of race, color, religion, sex, or national origin, that any dwelling is not available for the inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representatives regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin.

(5) It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of a dwelling or dwellings in relation to which such loan or other financial assistance is made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exceptions contained in paragraphs 1 and 3 of this section.

(6) It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, or national origin.

(7) It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of, his having exercised or enjoyed, or on account of his having aided or encouraged any other

person in the exercise or enjoyment of, any right granted or protected by this ordinance.

(8) It shall be unlawful for anyone, whether or not acting under color of law, to by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with:

(a) Any person because of his race, color, religion, sex, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwellings, or applying for or participating in any service, organization, or facility related to the business of selling or renting dwellings; or

(b) Any person because he is or has been or in order to intimidate such person or any other person or any class of persons from: (1) Participating, without discrimination on account of race, color, religion, sex, or national origin, in any act of activities, services, organizations or facilities described in subparagraph (a) of this paragraph; or (2) Affording another person or class of persons opportunity or protection so as to participate; or

(c) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination, on account of race, color, religion, sex, or national origin, in any of the activities, services, organizations or facilities described in subparagraph (a) of this paragraph, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate. (as added by Ord. No. 147)

9-404. Conciliation process. The mayor shall appoint a board of housing appeals with members adequate to effectively assist conciliation. The conciliation procedure is as follows:

(1) Complaints.

(a) A person who claims that another person has committed a discriminatory housing practice may report that offense to the board and file an informal complaint. An informal complaint may also be filed by the board if he has reasonable evidence to believe that a person has committed a discriminatory housing practice.

(b) The board shall treat a complaint referred by the secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as an informal complaint filed under subparagraph (a).

(c) An informal complaint must be in writing, verified and contain the following:

- (1) Identity of the actor;
- (2) Date of offense and date of filing the informal complaint;

(3) General statement of facts of the offense, including the basis of the discrimination (race, color, sex, religion, or national origin);

(4) Name and signature of complainant.

(d) Not more than 20 days after the filing of an informal complaint, the board shall notify the actor named in the complaint that:

(1) An informal complaint alleging the commission of a discriminatory housing practice has been filed against the actor;

(2) The actor will be furnished a copy of the complaint upon request; and

(3) The actor may file a written, subscribed, informal answer to the informal complaint.

(e) An informal complaint or answer may be amended at any time before the board notifies the city attorney (under paragraph 5) of a discriminatory housing practice upon which the informal complaint is based. The board shall furnish a copy of each amended informal complaint or answer to the actor or complainant, respectively, as promptly as practicable.

(f) Except for an offense based on a complaint referred under subsection (b), a person may not be prosecuted in municipal court for a discriminatory housing practice unless an informal complaint on the offense for which he is charged is filed not more than 90 days after the commission of the offense.

(g) The board may not disclose or permit to be disclosed to the public the identity of the actor before the board notifies the city attorney (under paragraph 5) of a discriminatory housing practice alleged against the actor in an informal complaint or while the informal complaint is in the process of being investigated and prior to completion of all negotiations.

(2) Investigation.

(a) With respect to each discriminatory housing practice alleged in an informal complaint and each discriminatory housing practice determined from reasonable evidence by the board for which no informal complaint has been filed, the board shall conduct as promptly as practicable an investigation to determine whether there is probable cause to believe an offense was committed and the facts of the offense. This subsection does not limit the authority of the board to conduct such other investigations or to use such other enforcement procedures, otherwise lawful, as he considers necessary to enforce this chapter.

(b) If the board determines that there is not probable cause to believe that a particular alleged or suspected discriminatory housing practice has been committed, the board shall take no further action with respect to that alleged or suspected offense.

(3) Conciliation agreement.

(a) The board determines that there is probable cause to believe that a discriminatory housing practice alleged in an informal complaint has been committed, the board and the actor, or a person who owns, controls, or manages a housing accommodation involved in the offense, or a person who employs the actor may voluntarily enter into a conciliation agreement.

(b) If a conciliation agreement is executed under this paragraph, a party to the agreement may not be prosecuted in municipal court for an offense specified in the agreement unless the board determines that the agreement has been violated and notifies the city attorney in writing of the violation.

(c) A conciliation agreement must be in writing in the form approved by the city attorney and must be signed and verified by the board and each other party to the agreement. A conciliation agreement that is not executed before the expiration of 30 days after notification to the actor as required under paragraph 1(d) must include the city attorney as a party. If a conciliation agreement is not reached within twenty (20) days after the city attorney is included as a party, the city attorney shall immediately notify all parties of the action the city intends to take. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

(d) A conciliation agreement executed under this section must contain:

(1) An identification of the discriminatory housing practice and corresponding actor that gives rise to the conciliation agreement under subparagraph (a) and the identification of any other discriminatory housing practice and actor that the parties agree to make subject to the limitation on prosecution in subparagraph (b);

(2) Identification of the housing accommodation subject to the conciliation agreement; and

(3) A statement that each party entering into the conciliation agreement with the board agrees:

(a) Not to violate this chapter or the conciliation agreement; and

(b) To file with the board a periodic activity report which states with respect to each person of the specified class (the race, color, sex, religion, or national origin alleged as the basis of discrimination in the informal complaint on the offense) who in person contacts a party to the conciliation agreement concerning either sale, rental, or financing in connection with a housing accommodation or a business relating to selling or renting housing accommodations the name and address or telephone number of the person, the date of each contact, and the result of

each contact. The party who prepares the activity report shall sign and verify the report. An activity report must be filed each month on the date specified in the conciliation agreement for a period of not fewer than three nor more than 24 months, as required by the conciliation agreement.

(e) In addition to the requirements of this subsection, a conciliation agreement may include any other condition agreed to be the parties.

(f) If the board determines that a conciliation agreement has been violated, the board shall give written notice to all actors subject to the agreement.

(4) Violations of conciliation agreement.

(a) A person commits an offense if, after he and the board execute a conciliation agreement he intentionally, knowingly, or recklessly violates the conciliation agreement.

(b) It is no defense to prosecution under this section that, with respect to a discriminatory housing practice that gave rise to the conciliation agreement;

(1) The actor did not commit the offense; or

(2) The board did not have probable cause to believe the offense was committed.

(5) Notification of the city attorney.

(a) Except as otherwise provided in subparagraph (b), if the board determines that there is probable cause to believe that a discriminatory housing practice alleged in an informal complaint has been committed, he shall promptly notify the city attorney in writing of the identification of the actor and offense and request prosecution in municipal court.

(b) If the board elects to attempt a conciliation, he may postpone notification for a period of not more than 30 days after notification to the actor of an informal complaint. However, if a conciliation agreement is executed during the period of postponement, the board is not required to notify the city attorney of the identification of the actor or of an offense specified in the conciliation agreement unless the board determines that the agreement has been violated.

(c) Notification required under subsection (a) is not a prerequisite to prosecution for an offense under this chapter. Except for notice prohibited under subparagraph (b), this paragraph does not limit communications, otherwise lawful, between the board and city attorney.

(6) Dismissal of charges. If, after the city attorney files a charge in the municipal court charging an actor with a discriminatory housing practice, a conciliation agreement is executed before commencement of trial on the offense, the city attorney shall cease prosecution and move for dismissal of the charge. (as added by Ord. No. 147)

9-405. Fair housing opportunity procedures manual. A fair housing operating procedures manual, which specifically outlines all the details of the housing discrimination complaint process, including the investigation, the notification, the conciliation, and the monitoring process, shall be used by the board for guidance in the conciliation process. The fair housing operating procedures manual shall be developed by the department of law in consultation with the community development office and shall be made available to the general public. (as added by Ord. No. 147)

CHAPTER 5

ADULT-ORIENTED ESTABLISHMENTS

SECTION

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- 9-512. Hours of operation.
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9-501. 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-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, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least 20% of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVD's, films and other electronic media which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

(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 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.

(6) "City council" means the City Council of the City of Clinton, 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) "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 significant or 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.

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

(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.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) 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. (as added by Ord. #430, May 2002, and amended by Ord. #484, Feb. 2006)

9-502. 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 City of Clinton without first obtaining a license to operate issued by the City of Clinton.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any 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 article must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third 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.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #430, May 2002)

9-503. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Clinton Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city manager. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city 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 city 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 (2) inches by two (2) inches of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Clinton, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

(o) 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.

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Clinton Police Department, the city manager shall notify the applicant that his application is conditionally 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 conclusion of such additional investigation, the city manager shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the city council.

(4) Whenever an application is denied or held for further investigation, the city manager 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 city council at which time the applicant may present evidence as to why his license should not be denied. The city council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Anderson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(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 license and shall be grounds for denial thereof by the city manager. (as added by Ord. #430, May 2002)

9-504. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-502 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-502 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Clinton Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (as added by Ord. #430, May 2002)

9-505. Permit required. In addition to the license requirements previously set forth for owners and operators 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 city manager. (as added by Ord. #430, May 2002)

9-506. Application for permit. (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Clinton Police Department and to the applicant.

(2) The application for a permit shall be upon a form provided by the city manager. 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 city 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 city 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 (2) inches by two (2) inches of the applicant.
- (i) The length of time the applicant has been a resident of the City of Clinton, 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 Clinton Police Department, the city manager 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 city manager 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 city manager 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 city council 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 board. (as added by Ord. #430, May 2002)

9-507. Standards for issuance of permit. (1) To receive a permit as an employer 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 Clinton Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city manager not later than twenty (20) days after the date of the application. (as added by Ord. #430, May 2002)

9-508. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned. (as added by Ord. #430, May 2002)

9-509. 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 Clinton Police Department, or any person designated by the city council. (as added by Ord. #430, May 2002)

9-510. 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 city manager. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Clinton Police Department and to the operator. The application for renewal shall be a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

(2) A license renewal fee of five hundred dollars (\$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 ($\frac{1}{2}$) of the total fees collected shall be returned.

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

(4) Every 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 city manager. 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 triplicate with and date by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Clinton Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty 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 one-half ($\frac{1}{2}$) of the fee shall be returned.

(6) If the Clinton Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city manager. (as added by Ord. #430, May 2002)

9-511. Revocation of license or permit. (1) The city manager 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 city council 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 city council 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 establishment is permitted or to any portion of the licensed premises where adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Anderson County Health Department.

(j) 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 city manager, before revoking or suspending 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 city council, 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. The transfer of any interest

in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. 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 the license. (as added by Ord. #430, May 2002)

9-512. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and between the hours of 1:00 A.M. and 12:00 noon on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Clinton Police Department, the Anderson County Sheriff's Department, or such other persons as the city council may designate. (as added by Ord. #430, May 2002)

9-513. 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, 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 city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) 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 Clinton 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 Clinton 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:

This Adult-Oriented Establishment is Regulated by Clinton City Code.
Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #430, May 2002)

9-514. 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, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) 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.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #430, May 2002)

9-515. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) 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. (as added by Ord. #430, May 2002)

9-516. Location of adult-oriented establishments restricted. (1) It shall be unlawful to establish, operate, or maintain any adult-oriented business establishment, that is, adult bookstore, adult motion picture theater, adult mini motion picture theater, or adult cabaret, within the city, if the proposed location is within one-thousand (1,000) feet of:

- (a) A residentially zoned district;
- (b) Any area of amusement which caters to family entertainment;
- (c) Any area which is devoted in part or exclusively to recreational activity;
- (d) Any school, park, church, mortuary, or hospital;
- (e) Any adult-oriented business establishment as defined by this section; or
- (f) Any other regulated uses, including but not limited to establishments authorized to sell any alcoholic beverages for on or off premises consumption. Any location selling beverages that contain less than five (5) percent alcohol are not to be considered with regard to the required spacing. (as added by Ord. #430, May 2002)

9-517. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #430, May 2002)

9-518, et seq. Reserved. (as added by Ord. #430, May 2002)