

**TITLE 9**

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

**CHAPTER**

1. GAME ROOMS.
2. CABLE TELEVISION.
3. ADULT-ORIENTED ESTABLISHMENTS.
4. [REPEALED.]

**CHAPTER 1**

**GAME ROOMS**

**SECTION**

- 9-101. Game room defined.  
9-102. Hours of operation regulated.

**9-101. Game room defined.** A game room is defined as any business establishment or premises where the principal business activity is operating, maintaining or providing billiard tables and/or video machines for public use. (Ord. #V, Sept. 1982)

**9-102. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct or operate a game room between the hours of 12:00 o'clock midnight and 6:00 a.m. on any day of the week. (Ord. #V, Sept. 1982)

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<sup>1</sup>Municipal code references

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

## CHAPTER 2

### CABLE TELEVISION

#### SECTION

9-201. To be furnished under franchise.

**9-201. To be furnished under franchise.** Cable television service shall be furnished to the City of Elkton and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Elkton and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #II-1981 dated March 2, 1981, and any amendments thereto, in the office of the city recorder.

## CHAPTER 3

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-301. Definitions.
- 9-302. Adult-oriented establishment board.
- 9-303. Operating licenses; issuance; nontransferability; work in unlicensed establishments.
- 9-304. Operating licenses; application procedure; required information.
- 9-305. Operating licenses; age requirement; other qualifications.
- 9-306. Investigations and inspections; penalty for refusal to permit; notice of decision.
- 9-307. Injunctions; contempt violations.
- 9-308. Licenses; permits; grounds for revocation, suspension or annulment; consequences.
- 9-309. Hearings on board actions; judicial review; effect of board decisions.
- 9-310. Licenses; termination; renewal applications and fees.
- 9-311. Hours of operation; times for inspection.
- 9-312. Employee register; entertainment list; minors prohibited; physical arrangement; display of license.
- 9-313. Prohibited conduct.
- 9-314. Location restrictions.

**9-301. Definitions.** As used in this part, unless the context otherwise requires:

(1) "Adult bookstore" means a business that offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia, whether determined by the total number of sexually oriented materials, devices or paraphernalia offered for sale or by the retail value of such materials, devices or paraphernalia, specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live, and that restricts or purports to restrict admission to adults or to any class of adults. The definition specifically includes items sexually oriented in nature, regardless of how labeled or sold, such as adult novelties, risque gifts or marital aids.

(2) "Adult cabaret" means an establishment that features as a principal use of its business, entertainers, waiters, or bartenders who expose to public view of the patrons within such opaque material or completely covered by translucent material, including swim suits, lingerie, or latex covering. "Adult cabaret" includes a commercial establishment that features entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, that has as a

principal or predominant theme, emphasis, or portion of such performance, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of fewer 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 in this section, for observation by patrons in the building.

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

(6) "Adult-oriented establishment" includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna; further, "adult-oriented establishment" means any premises to which the public patrons or members are invited or admitted and that 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. "Adult-oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, or any other term of like import.

(7) "Board" means the adult-oriented establishment board.

(8) (a) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not such person is paid a salary, wage, or other compensation by the operator of such business;

(b) "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does it include an independent accountant, attorney, or other similar professional incidentally visiting the premises solely to perform accounting, legal or other similar professional services; provided, that the accountant,

attorney or other similar professional is not a manager, owner, operator, entertainer connected with the adult-oriented establishment or the providing of adult entertainment.

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

(10) "Legal holidays" shall consist of: January 1; the third Monday in January, known as "Martin Luther King, Jr. Day"; the third Monday in February, known as "Washington Day"; the last Monday in May, known as "Memorial" or "Decoration Day"; July 4; the first Monday in September, known as "Labor Day"; the second Monday in October, known as "Columbus Day"; November 11, known as "Veterans' Day"; the fourth Thursday in November, known as "Thanksgiving Day"; December 25; and Good Friday; and when any one (1) of these days falls on Sunday, then the following Monday shall be substituted; and when any of these days falls on Saturday, then the preceding Friday shall be substituted; also, all days appointed by the governor or by the president of the United States as days of fasting or thanksgiving, and all days set apart by law for holding county, state, or national elections, throughout this state, are made legal holidays.

(11) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one (1) or more of the employees exposes to public view of the patrons within such 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.

(12) "Minor" means any person under the age of eighteen (18) years old.

(13) "Notice" means, when required by this part, placing the document in the United States mail with sufficient first-class postage to carry it to its destination to the address of the person being notified as contained in their application, unless such person has notified the board in writing of such person's new address. "Receipt of notification" is presumed three (3) days after the mailing of a notice as provided in § 9-314.

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

(15) "Person" means an individual, partnership, limited partnership, firm, corporation or association.

(16) "Rap parlor" means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults.

(17) "Sauna" means an establishment or place primarily in the business of providing:

- (a) A steam bath; or
- (b) Massage services; or
- (c) No escort services.

(18) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one (1) of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such 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.

(20) "Sexual gratification" means sexual conduct as defined in this section.

(21) "Sexual stimulation" means to excite or arouse, the prurient interest or to offer or solicit acts of sexual conduct as defined in this section.

(22) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered

(23) "Specified criminal acts" means the following criminal offenses as defined by the Tennessee Code Annotated or the corresponding violation of another state or country:

(a) Aggravated rape;

(b) Rape;

(c) Rape of a child;

(d) Aggravated sexual battery;

(e) Sexual battery by an authority figure;

(f) Sexual battery;

(g) Statutory rape;

(h) Public indecency;

(i) Prostitution;

(l) Promoting prostitution;

(k) Distribution of obscene materials;

(l) Sale, loan or exhibition to a minor of material harmful to minors;

(m) The display for sale or rental of material harmful to minors;

(n) Sexual exploitation of a minor;

- (o) Aggravated sexual exploitation of a minor; and
  - (p) Especially aggravated sexual exploitation of a minor.
- (24) "Specified services" means massage services, private dances, private modeling, and acting as an escort as defined in this part, and any other live adult entertainment as defined in this section.
- (25) "Specified sexual activities" means:
- (a) Human genitals in a state of sexual stimulation or arousal;
  - (b) Acts of human masturbation, sexual intercourse or sodomy;
- or
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (Ord. #I-98, March 1998, as replaced by Ord. #04-08, Dec. 2008, and Ord. #01-09, Jan. 2009)

**9-302. Adult-oriented establishment board.** (1) There is hereby created an adult-oriented establishment board.

(2) The board shall consist of the five (5) members of the Elkton Board of Mayor and Aldermen.

(3) Three (3) members shall constitute a quorum.

(4) The board shall serve without compensation.

(5) The Mayor of the City of Elkton shall serve as chair and the city recorder shall notify interested persons and members of board meetings and keep minutes of the meetings.

(6) The mayor shall not have a vote except in the event of a tie.

(7) The board shall meet as often as required to carry out the provisions of this chapter.

(8) Decisions of the board shall be appealed to the Circuit Court of Giles County, Tennessee. (Ord. #I-98, March 1998, as replaced by Ord. #04-08, Dec. 2008, and Ord. #01-09, Jan. 2009)

**9-303. Operating licenses; issuance; nontransferability; work in unlicensed establishments.** (1) Except as provided in § 9-303(5), from and after January 1, 2009, no adult-oriented establishment shall be operated or maintained in the city limits of Elkton without first obtaining a license to operate issued by the City of Elkton Adult-Oriented Establishment Board.

(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 that desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment. License must be displayed, in full view, at the establishment.

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

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

(5) All existing adult-oriented establishments, entertainers, employees, escorts, or operators, at the time the ordinance comprising the chapter is given local effect, must submit an application for an appropriate license or permit within one hundred twenty (120) days of the ordinance becoming effective in the City of Elkton. All existing adult-oriented establishments, entertainers, employees, escorts, or operators, at the time the ordinance comprising this chapter, who timely submit an application for an appropriate license or permit, as set forth in this chapter, shall be granted a conditional license or permit maintaining the status quo. If no timely application is filed within the one hundred twenty day (120) period, or no license or permit is issued by the board or granted through judicial review by the trial court, then the adult-oriented establishment, entertainer, employee, escort, or operator shall cease to operate or to perform such services or entertainment.

(6) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the applicable zoning requirements in the City of Elkton. Any zoning requirement shall be in addition to and not an alternative to any requirement of this part.

(7) No more than two (2) licenses will be issued at any time. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-304. Operating licenses; application procedure; required information.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the adult-oriented establishment board. A copy of the application shall be distributed promptly to the City of Elkton Police Department.

(2) The application for a license shall be upon a form provided by the board. An applicant for a license 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) The business, occupation or employment of the applicant in an adult-oriented establishment for five (5) years immediately preceding the date of the application;
- (d) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subject to such action of suspension or revocation;

(e) Any conviction for or plea of nolo contendere to a specified criminal act as defined in § 9-301(23) of this chapter;

(f) The address of the adult-oriented establishment to be operated by the applicant;

(g) (i) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation;

(ii) If the applicant is a partnership, the application shall specify the name and address of the partnership, and the name and address of all general partners of the partnership;

(iii) If the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership; and

(h) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with this part.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board or the police department, pursuant to § 9-305(4) of this chapter, the board shall notify the applicant that the 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 investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial of the license by the board. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-305. Operating licenses; age requirement; other qualifications.**

To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(1) (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 had a license revoked within five (5) years immediately preceding the date of the application;

(iii) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(iv) The applicant shall not have been convicted of a "specified criminal act," as defined in § 9-301(23) of this chapter, for which:

(A) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(C) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(b) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(2) (a) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-304(2) of this chapter shall be at least eighteen (18) years of age;

(ii) No officer, director and stockholder required to be named under § 9-304(2) of this chapter shall have had an adult-oriented establishment license revoked within five (5) years immediately preceding the date of the application;

(iii) No officer, director or stockholder required to be named under § 9-304(2) of this chapter shall have been convicted of or pleaded novo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(iv) The applicant or officer, director or stockholder required to be named under § 9-304(2) of this chapter shall not have been convicted of a "specified criminal act," as defined in § 9-301(23) of this chapter, for which:

(A) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense; and

(C) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(b) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(3) (a) If the applicant is a partnership, joint venture 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) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had a license revoked within five (5) years immediately preceding the date of the application;

(iii) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and

(iv) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified criminal act," as defined in § 9-301(23) of this chapter, for which:

(A) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;

(C) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(b) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(4) No license shall be issued unless the board or police department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the board no later than twenty (20) days after the date of the application. The board shall only deny an application for a license for reasons set forth in this section.

(5) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in this section has elapsed. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-306. Investigations and inspections; penalty for refusal to permit; notice of decision.** (1) In order to effectuate the provisions of this section, the board, its authorized representative or city police department is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part.

(2) Within ten (10) days of receiving the results of the investigation conducted pursuant to § 9-305(4) of this chapter, the board shall notify the applicant that the 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 investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(3) If an additional investigation is held and is not a result of actions by the applicant, upon the expiration of the thirtieth day from the filing of the application, the applicant shall be permitted to operate the business for which the license is sought, unless or until the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-307. Injunctions; contempt violations.** (1) The board has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this part, and is further empowered to enter into any such court to enforce the provisions of this part in order to ensure compliance with such provisions.

(2) Any violation of an injunction obtained under this section is contempt with a fine of fifty dollars (\$50.00).

(3) Each day in contempt of such injunction is considered a separate offense.

(4) The circuit, chancery, or criminal courts of this state and the chancellors and judges of the courts shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the board within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce this part. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-308. Licenses; permits; grounds for revocation, suspension or annulment; consequences.** (1) The board shall revoke, suspend or annul 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; provided, that in the case of a first offense by an operator where conduct was solely that of an employee, the penalty shall not exceed a license suspension of thirty (30) days if the board shall find that an 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 becomes ineligible to obtain a license;

(d) Any cost or fee required to be paid by this part is not paid;

(e) 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;

(f) 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;

(g) Any operator who fails to maintain the licensed premises in a clean, sanitary and safe condition; and

(h) Any operator, employee or entertainer is convicted of a specified criminal act, as defined in § 9-301(27) of this chapter, provided that such violation occurred on the licensed premises.

(2) (a) Notwithstanding anything in this part to the contrary, before revoking or suspending any license or permit, the chair shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the board. In the event the license holder or permit holder does not request in writing a hearing before the board within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

(b) If the license holder or permit holder desires to request a hearing before the board to contest the suspension or revocation, such request shall be made in writing to the city recorder within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

(c) If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city recorder's receipt of such request before the board, at which time the license holder or permit holder may present evidence. The board shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of the notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the board.

(3) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-309. Hearings on board actions; judicial review; effect of board decisions.**

(1) As used in this section, "application" means:

- (a) An application for a license;
- (b) An application for a license renewal.

(2) Whenever an application is denied, the chair shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. All adult-oriented establishments, entertainers, employees, or operators who timely submit an application for renewal of an appropriate license or permit shall be granted a conditional license or permit maintaining the status quo pending review by the board and final judicial review by the trial court. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the city recorder within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city recorder's receipt of such request before the board, at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-310. Licenses; termination; renewal applications and fees.**

(1) Every license issued under this section 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 board. 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 board. A copy of the application for renewal shall be distributed promptly by the chair of the board to the Chief of Police, Elkton. The application for renewal shall contain such information and data relevant to the renewal request, including information related to the applicant's qualifications or whether there are grounds for denial of renewal, and shall be given under oath or affirmation, as may be required by the board, but not less than the information contained in the original application.

(2) A license renewal fee of one thousand dollars (\$1,000.00) 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 thirty (30) days before the license expires. If the application is denied, one half (1/2) of the fee shall be returned.

(3) If the police chief is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(4) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this section for original license applications and permit applications. In the event a license renewal application is denied, the applicant shall have all rights of appeal to the board as set forth herein. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-311. Hours of operation; times for inspection.** (1) Pursuant to Tennessee Code Annotated, § 7-51-1402, no adult-oriented establishment shall open to do business before 8:00 A.M. Monday through Saturday; and no such establishment shall remain open after 12:00 midnight, Monday through Saturday.

(2) Pursuant to Tennessee Code Annotated, § 7-51-1405, the operating hours defined in § 9-311(1) shall not apply to an establishment or the portion of an establishment that offers only live, stage adult entertainment in a theatre, adult cabaret, or dinner show type setting. Any adult-oriented establishment under this subsection shall not open to do business before 8:00 A.M. Monday through Saturday; and no such establishment shall remain open after 2:00 A.M., Monday through Sunday at 2:00 A.M.

(3) Notwithstanding § 9-311(2) from midnight to 2:00 A.M., no adult-oriented establishment shall be open for business on any Sunday or on Christmas Day for the purpose of conducting business as an adult-oriented establishment.

(4) The public portion of all adult-oriented establishments shall be open to inspection at all reasonable times by the applicable sheriff's department

or such other persons as the board may designate. (as added by Ord. #04-08, Dec. 2008, replaced by Ord. #01-09, Jan. 2009, and amended by Ord. #03-09, June 2009)

**9-312. Employee register; entertainment list; minors prohibited; physical arrangement; display of license.** (1) The operator shall maintain a register of all employees or entertainers, showing for each person the name, any aliases used, birth date, sex, date of employment and termination, and duties associated with the adult-oriented establishment. The operator shall maintain a file on each employee or entertainer, containing each person's name, any aliases used, home address, birth date, sex, height, weight, color of hair and eyes, telephone number, social security number, driver license number, date of employment and termination, and duties associated with the adult-oriented establishment. This information on each employee shall be maintained in the file on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by the board or police department upon demand of a member of the board or police department at all reasonable times, however, such personal information shall not be made public unless necessary pursuant to a violation of the city ordinance.

(3) Every act or omission by an employee constituting a violation of the provisions of this part 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 supervising the conduct of all entertainers and employees while on the licensed premises, and shall exercise due diligence in taking reasonable efforts to prevent acts or omissions of any entertainers or employees constituting a violation of the provisions of this part, with the operator's failure to reasonably fulfill this duty constituting a ground for determining whether the operator's license shall be revoked, suspended or renewed.

(5) 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 in the ordinance comprising this chapter.

(6) 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 a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever, doorways may be sufficient for visibility under this part if it is visible from a

common area of the premises and does not have a door, curtain, partition, drape or any other obstruction blocking the doorway.

(7) 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.

(8) The license shall be conspicuously displayed in the common area of the premises at all times. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-313. Prohibited conduct.** (1) No operator, entertainer or employee of an adult-oriented establishment, either on the premises or in relation to the person's role as an operator, entertainer, or employee of an adult-oriented establishment, shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer or employee of an adult-oriented establishment shall encourage or permit any customer or patron upon the premises to touch, caress or fondle the specified anatomical areas of any operator, entertainer or employee.

(3) No customer shall be permitted to touch, caress or fondle any entertainer, employee or operator in a specified anatomical area as defined herein on the premises during any performance, however, incidental contact during a performance shall not be in violation of this subsection.

(4) (a) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

(i) Engage in sexual intercourse;

(ii) Engage in deviant sexual conduct;

(iii) Appear in a state of nudity; or

(iv) Fondle the genitals or any customer, patron or person

of the opposite sex or allow any customer, patron or person of the opposite sex to fondle the genitals of the employee or entertainer.

(2) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the showing of the covered male genitals in a discernibly turgid state.

(3) No license holder shall advertise that such license holder offers sexual stimulation or sexual gratification as defined in this part. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**9-314. Location restrictions.** No person shall operate an adult-oriented establishment within:

(a) Two thousand feet (2,000') of a residence, including any apartment or dwelling house, and/or any place of public gathering as

defined by the laws of the State of Tennessee, not including any hotel or motel; or

(b) Within three hundred fifty feet (350') of the centerline of a public road.

(2) Such distance shall not apply to subsequent purchasers of said existing adult-oriented establishment in existence in Elkton, Tennessee as of January 1, 2009.

(3) Said distance restrictions shall also not apply to subsequent purchasers of said existing adult-oriented establishments which do not comply with same. However, should a pre-existing establishment not be operated for a period of one (1) year the said distance restrictions shall apply to such location. (as added by Ord. #04-08, Dec. 2008, and replaced by Ord. #01-09, Jan. 2009)

**CHAPTER 4**

**[REPEALED]**

(Ord. #VII-98, Oct. 1998, as repealed by Ord. #04-08, Dec. 2008, and  
Ord. #01-09, Jan. 2009)