

## TITLE 9

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

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. MASSAGE PARLORS AND TECHNICIANS.
3. CABLE TELEVISION.
4. ADULT-ORIENTED ESTABLISHMENTS.

#### CHAPTER 1

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

#### SECTION

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

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 5.

(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 (1) of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under § 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; or

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

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

(5) "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.

(6) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (2007 Code, § 9-101)

**9-102. Exemptions.** The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (2007 Code, § 9-102)

**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. (2007 Code, § 9-103)

**9-104. Permit procedure.** (1) Application form. A sworn application containing the following information shall be completed and filed with the city

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<sup>1</sup>State law references

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

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

manager by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents;

(b) A brief description of the type of business and the goods to be sold;

(c) The dates for which the applicant intends to do business or make solicitations;

(d) The names and permanent addresses of each person who will make sales or solicitations within the city;

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitation, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person; and

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (2007 Code, § 9-104)

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

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

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise; or

(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. (2007 Code, § 9-105)

**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. (2007 Code, § 9-106)

**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. (2007 Code, § 9-107)

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

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city manager in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (2007 Code, § 9-108)

**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 six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for

subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (2007 Code, § 9-109)

**9-110. Violations 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. (2007 Code, § 9-110)

## CHAPTER 2

### MASSAGE PARLORS AND TECHNICIANS

#### SECTION

- 9-201. Definitions.
- 9-202. Permit required for a massage parlor; public health card required for massage technician.
- 9-203. Examination of massage technicians; issuance of public health card.
- 9-204. Massage technician permit application; renewal; fees.
- 9-205. Investigation of applicant for massage technician permit; grounds for denial of application.
- 9-206. Revocation of massage technician permit; grounds; notice to permittee.
- 9-207. Massage parlor permit application; renewals; fees.
- 9-208. Investigation of applicant for massage parlor permit; grounds for denial of application.
- 9-209. Investigation of premises and issuance of massage parlor permit.
- 9-210. Revocation of massage parlor permit; grounds; notice to permittee.
- 9-211. Appeals.
- 9-212. Right of entry.
- 9-213. Minimum standards for massage parlors.
- 9-214. Individual health requirements for massage technicians.
- 9-215. Suspension of permit; reinstatement.
- 9-216. Display of permit.
- 9-217. Massage parlors--unlawful acts.
- 9-218. Violations and penalty.

**9-201. Definitions.** For purposes of this chapter the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning:

(1) "Massage." The administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part of the whole human body or the muscles or joints thereof, by any physical or mechanical means. "Massage" shall also mean the giving, receiving, or administering of a bath to any person or the application of body paint or other colorant to any person.

(2) "Massage parlors." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barber shop or beauty salon

operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (2007 Code, § 9-201)

**9-202. Permit required for a massage parlor; public health card required for massage technician.** (1) On and after the effective date of this chapter, it shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance.

(2) On and after the effective date of this chapter, it shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card and permit issued pursuant to this chapter or any prior ordinance. (2007 Code, § 9-202)

**9-203. Examination of massage technicians; issuance of public health card.** All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Chattanooga-Hamilton County Health Department and stating that the person examined is either free from any contagious or communicable disease, or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city manager or his designee the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city manager or his designee may at any time require an immediate physical examination of any such person.

The employer or any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police, or the city manager, or their duly authorized representative at all reasonable times. (2007 Code, § 9-203)

**9-204. Massage technician permit application; renewal; fees.** Any person desiring a permit to perform the services of massage technician at a massage parlor in the city shall make application in triplicate form to the city manager or his designee, who shall immediately refer one (1) copy of same to the



chief of police. Each massage technician permit application shall be accompanied by an investigation fee of twenty-five dollars (\$25.00). Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, current and last previous employment of the applicant. In addition, such application shall include a sworn statement as to whether or not the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of any application or revocation of a permit."

Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application.

Each massage technician permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of ten dollars (\$10.00). (2007 Code, § 9-204)

**9-205. Investigation of applicant for massage technician permit; grounds for denial of application.** Upon receipt of the application and fee as provided for in the preceding section, the city manager or his designee shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant. The result of this investigation shall be submitted to the city manager or his designee within thirty (30) days of the request.

The city manager or his designee shall deny any application for a massage technician permit under this chapter after notice and hearing if the city manager or his designee finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall so be grounds for denial of this application. Notice of the hearing before the city manager or his designee for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-205)

**9-206. Revocation of massage technician permit; grounds; notice to permittee.** Any massage technician permit granted under this chapter shall be revoked by the city manager or his designee after notice and hearing if the permittee has within a period of two (2) years been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offense, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or his designee for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-206)

**9-207. Massage parlor permit application; renewals; fees.** Any person desiring a massage parlor permit to establish, maintain, or operate a massage parlor in the city shall make application to the city manager or his designee. Each massage parlor permit application shall be accompanied by an investigation fee of fifty dollars (\$50.00), payable to the city. Each massage parlor permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of twenty-five dollars (\$25.00). Each such application shall contain the name, address, telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

In addition, such application shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof, or any shareholder) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in any other jurisdiction.

The application shall state thereon that: "It is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application. (2007 Code, § 9-207)

**9-208. Investigation of applicant for massage parlor permit; grounds for denial of application.** Upon receipt of the application and fee as provided for in the preceding section, the city manager or his designee shall

request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors, and managers thereof and all shareholders). The result of this investigation shall be submitted to the city manager or his designee within thirty (30) days of the request.

The city manager or his designee shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city manager or his designee finds that the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director, or manager thereof or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city manager or his designee for denial of this application shall be given in writing setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-208)

**9-209. Investigation of premises and issuance of massage parlor permit.** The city manager or his designee, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provision of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes and, for this purpose, a copy of the application shall immediately be referred to the building official to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether said premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city manager or his designee within thirty (30) days of the request. (2007 Code, § 9-209)

**9-210. Revocation of massage parlor permit; grounds; notice to permittee.** Any massage parlor permit granted under this chapter shall be removed by the city manager or his designee after notice and hearing if the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director or manager thereof or shareholder) has within a period of two (2) years been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or chapter in

this or any other jurisdiction. Discovery by the city manager or his designee of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or his designee for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2007 Code, § 9-210)

**9-211. Appeals.** Any applicant or permittee aggrieved by the actions of the city manager or his designee in the denial of an application for massage parlor permit or massage technician permit, or by the decision of the city manager or his designee with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right of appeal to the board of commissioners. Such appeal shall be taken by filing with the city manager, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city manager shall forthwith notify the board of commissioners, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The board of commissioners may reverse or affirm, or may modify any decision of the city manager or his designee, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the board of commissioners on such appeal shall be final and conclusive. (2007 Code, § 9-211)

**9-212. Right of entry.** The chief of police or the city manager or his designee or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this chapter to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be provided with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which, in the opinion of the inspector, warrants a more thorough inspection by the building official, the Chattanooga-Hamilton County Health Department, the Bureau of Fire Prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the City of Soddy-Daisy, or the State of Tennessee, he shall report such conditions to such person or agency and request that said premises be examined and any findings be reported to the chief of police and the city manager or his designee. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement officers or other employees of the City of Soddy-Daisy, or the State of Tennessee, charged with the enforcement of health

and safety or criminal laws, wherein such right of entry is vested by other ordinances or laws. (2007 Code, § 9-212)

**9-213. Minimum standards for massage parlors.** No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards.

(1) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials shall be disinfected after use on each patron.

(2) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

(5) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(6) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker and toilet facilities shall be provided for male and female patrons.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam-rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

(10) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (2007 Code, § 9-213)

**9-214. Individual health requirements for massage technicians.**

No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements.

(1) No massage technician shall administer a massage if such massage technician knows or should know that he or she is not free of any contagious or communicable disease.

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the State of Tennessee may certify that such person may be safely massaged prescribing the conditions thereof.

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron. (2007 Code, § 9-214)

**9-215. Suspension of permit; reinstatement.** If the chief of police or the city manager, or their duly authorized representatives, find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused the chief of police, the city manager, or their duly authorized representatives, the right to enter the premises to enforce the provisions of this chapter, upon report to the city manager or his designee he may enter an order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set forth the reasons for the suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city manager or his designee shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (2007 Code, § 9-215)

**9-216. Display of permit.** Every person to whom a massage permit shall have been granted shall display said massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises.

Every person to whom a massage technician permit shall have been granted shall, while in massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment the massage technician permit. (2007 Code, § 9-216)

**9-217. Massage parlors- -unlawful acts.** (1) It shall be unlawful for any person in a massage parlor to place his or her hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genital parts, or any portion thereof, to any other person of the opposite sex.

(3) It shall be unlawful for any person while in the presence of any other person of the opposite sex in a massage parlor to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

(4) It shall be unlawful for any person owning, operating or managing a massage parlor knowingly to cause, allow, or permit in or about such parlor, any agent, employee, or any other person under his control or supervision, to perform such acts prohibited in this chapter.

(5) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(6) Every person owning or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to provide massage services at any time between the hours of 9:00 P.M. and 7:00 A.M. and on Sundays. However, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(8) The administering of massages shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females or if the same general area is used by both male and female customers, then different times for such separate use shall be designated and posted. (2007 Code, § 9-217)

**9-218. Violations and penalty.** Any person violating any of the provisions of this chapter, upon conviction by the court, shall be punished according to the general penalty provisions of this municipal code of ordinances. (2007 Code, § 9-218)

**CHAPTER 3****CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

**9-301. To be furnished under franchise.** Cable television shall be furnished to the City of Soddy-Daisy and its inhabitants under franchise granted to Comcast Cable, by the Board of Commissioners of the City of Soddy-Daisy, Tennessee. The rights, powers, duties and obligations of the City of Soddy-Daisy and its inhabitants are clearly stated in the franchise agreement executed by and which shall be binding upon the parties concerned.<sup>1</sup> (2007 Code, § 9-301)

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<sup>1</sup>Cable television franchise agreements are of record in the office of the city recorder.



## CHAPTER 4

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

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**9-401. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs, 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," as defined below. "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.

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

private dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a 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.

(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 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.

(6) "Adult-oriented establishment" means and includes, 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.

(7) "Board of commissioners" means the Board of Commissioners of the City of Soddy-Daisy, Tennessee.

(8) "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.

(9) "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.

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

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks; and

(iii) Female breasts below a point immediately above the top of the areola.

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

(12) "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; and/or

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (2007 Code, § 9-401)

**9-402. 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 Soddy-Daisy without first obtaining a license to operate issued by the City of Soddy-Daisy.

(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 the ordinance comprising this chapter must submit an application for a license within one hundred twenty (120) days of the passage of the ordinance comprising this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises are lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (2007 Code, § 9-402)

**9-403. Application for license.** (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Soddy-Daisy. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) 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 percent (5%) 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 liability 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 therefor, 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 inches by two inches (2" x 2") 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 Soddy-Daisy, 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; and

(p) Evidence in form deemed sufficient to the city 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 Soddy-Daisy Police Department, the police chief shall notify the applicant that his application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief 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 commissioners.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners at which time the applicant may present evidence as to why his license should not be denied. The board 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 board of commissioners 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 Hamilton 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 police chief. (2007 Code, § 9-403)

**9-404. 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 § 9-403 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-403 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 Soddy-Daisy Police Department has investigated the applicant's qualifications to be licensed. The

results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (2007 Code, § 9-404)

**9-405. 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 police chief. (2007 Code, § 9-405)

**9-406. Application for permit.** (1) Any person desiring to secure a permit shall make application to the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. 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 therefor, 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 inches by two inches (2" x 2") of the applicant;
- (i) The length of time the applicant has been a resident of the City of Soddy-Daisy, or its environs, immediately preceding the date of the application; and
- (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 Soddy-Daisy Police Department, the police chief 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 police chief 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 police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of commissioners 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 police chief. (2007 Code, § 9-406)

**9-407. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Soddy-Daisy Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (2007 Code, § 9-407)

**9-408. 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 (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 (1/2) of the fee shall be returned. (2007 Code, § 9-408)

**9-409. 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 Soddy-Daisy Police Department, or any person designated by the board of commissioners. (2007 Code, § 9-409)

**9-410. 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 police chief. 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 police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

(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 (1/2) of the total fees collected shall be returned.

(3) If the Soddy-Daisy Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(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 police chief. 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 dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of commissioners.

(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 (1/2) of the fee shall be returned.

(6) If the Soddy-Daisy Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (2007 Code, § 9-410)

**9-411. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

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

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of commissioners 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 board of commissioners shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

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

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

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

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

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

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

(i) Any operator allows continuing violations of the rules and regulations of the Hamilton 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 police chief, 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 board of commissioners, 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. (2007 Code, § 9-411)

**9-412. Hours of operation.** (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Soddy-Daisy Police Department, the Hamilton County Sheriff's Department, or such other persons as the board of commissioners may designate. (2007 Code, § 9-412)

**9-413. 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 board of commissioners. 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 Soddy-Daisy 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 Soddy-Daisy 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 the City of Soddy-Daisy Municipal Code. Entertainers are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs; and
- (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (2007 Code, § 9-413)

**9-414. 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.

(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 person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (2007 Code, § 9-414)

**9-415. 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. (2007 Code, § 9-416)

**9-416. Violations and penalty.** (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) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (2007 Code, § 9-415)