

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

SOLICITORS AND CANVASSERS

SECTION

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9-101. Solicitors' and canvassers' permit. It shall be unlawful for any person, firm or corporation, whether a resident of the municipality or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares, or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders, without having first applied for and received from the city recorder a solicitor's permit so to do. This chapter shall also include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room,

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

lodging house, apartment, shop or other place within the municipality for the primary purpose of exhibiting samples and taking orders for future delivery. (1971 Code, § 5-101)

9-102. Application for permit. Any person desiring to secure a solicitor's permit shall apply therefor in writing over his or her signature to the city recorder on forms provided by the municipality and such application shall state:

- (1) Name of applicant;
- (2) Complete permanent home and local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom, establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) The last cities or villages, not to exceed three, where the applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities;
- (8) The personal description and complete identification of the applicant.

Such application shall be accompanied by such credentials and other evidence of the good moral character and identity of the applicant as may be reasonably required by the city recorder. In addition thereto such application shall be accompanied by a surety bond, or a personal bond executed by two good and sufficient sureties who are bona fide residents of Blount County, Tennessee, running to the City of Alcoa, in the amount of \$500 00, conditioned that the said applicant shall comply fully with all the provisions of this chapter and the statutes of the State of Tennessee regulating solicitors and canvassers, and guaranteeing to any citizen of this municipality that all money paid as a down payment will be accounted for and applied according to the representations made, and that the property purchased will be delivered according to the representations, and will be as represented by him, and that he will refund the purchase price of any goods sold by him which are not as represented. Action on such bond may be brought by the person or persons aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of court in which suit is commenced, be relieved without costs of all further liability. (1971 Code, § 5-102)

9-103. Exhibition of permit. Such permit shall be carried at all times by the applicant to whom issued when soliciting or canvassing in the city, and

shall be exhibited by any such applicant whenever he or she shall be requested so do by any police officer or any person solicited. No permit shall be used at any time by any person other than the one to whom it is issued. (1971 Code, § 5-103)

9-104. Revocation of permit. Any such permit may be revoked by the city recorder for violations by the holder thereof of any of the laws of the city or of any state or federal law, or whenever the holder of such permit shall cease to possess the character and qualifications required by this chapter for the issuance of such permit. (1971 Code, § 5-104)

9-105. Requested by residents to enter upon private property.¹ The practice of going in and upon private residences in the City of Alcoa by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor. (1971 Code, § 5-105)

9-106. Solicitation within public rights-of-way. For purposes of ensuring the public health, safety and welfare of those using the public rights-of-way of Alcoa City streets, it shall be unlawful for any person, organization, or other entity to solicit, take or attempt to take monetary contributions at intersections or any other location within said public rights-of-way. (as added by Ord. #02-009, May 2002)

¹State law reference

Breard v. City of Alexandria, 95 L. Ed. 838 (6/4/51) U.S. Supreme Court decision

CHAPTER 2

TAXICABS

SECTION

9-201. Definitions.

9-202. Taxicab permit and business license required.

9-203. Procedure for applications for and issuance of permits.

9-204. Insurance or bond required.

9-205. Violations.

9-201. Definitions. The term "taxicab" when used in this chapter shall mean every motor vehicle designed and/or constructed to accommodate and transport passengers not more than five in number, exclusive of the driver, and fitted with taxi meters and/or using or having some other device, method or system to indicate and determine the passenger fare charged for distance traveled. (1971 Code, § 5-201)

9-202. Taxicab permit and business license required. It shall be unlawful for any person to engage in the taxicab business or to operate a taxicab upon the streets for the City of Alcoa unless the owner has first obtained a permit for each vehicle to be operated upon the streets of the City of Alcoa and has a currently effective business license. (1971 Code, § 5-202)

9-203. Procedure for applications for and issuance of permits. Application for taxicab permits shall be made under oath and in writing to the city recorder. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of taxicabs the applicant desires to operate on the streets of the City of Alcoa, the makes and models of said taxicabs and such other pertinent information as the city recorder may require. Upon compliance of the applicant with the other provisions of this chapter, the city recorder shall issue duplicate permits for each taxicab listed on the application, which permits shall be at all times in the possession of the operator of such taxicabs and shall be exhibited upon request of the law enforcement officers of the city. (1971 Code, § 5-203)

9-204. Insurance or bond required. No permits shall be issued or continued in operation unless and until the owner or owners of a taxicab or taxicabs have filed with the city recorder for each and every such taxicab a surety bond issued by some insurance or surety company authorized to do business in the State of Tennessee in the sum of \$100,000.00 agreeing to pay any final judgment rendered against the owner or operator of such taxicab on account of injury or death to any person or persons or damage to property.

The owner or owners of a taxicab or taxicabs may in lieu of such bond file with the city recorder a policy or policies of liability insurance issued by a public liability insurance or surety company authorized to do business in Tennessee covering each and every taxicab for which a permit is requested with limits of not less than \$50,000.00 because of bodily injury or death of one person and \$100,000.00 because of bodily injury or death to two or more persons in any one accident and \$25,000.00 because of injury or of destruction of property or other in any one accident. Said insurance policy shall also provide for the payment of medical expenses for persons injured by accident while occupying said taxicab or taxicabs or entering or alighting from the same or being struck by such taxicabs in the amount of at least \$1,000.00 for each person and \$3,000.00 for two or more persons incurring such medical expenses in one accident.

The insurance policy required by this section shall contain a provision that it shall not be cancelled except at least 20 days after written notice has been given by the insuror to both the insured and the city recorder for the City of Alcoa. (1971 Code, § 5-204)

9-205. Violations. Any owner who allows his taxicabs to be operated upon the streets of the City of Alcoa without having first complied with this chapter and any taxicab operator who operates a taxicab upon the streets of the City of Alcoa without having in his possession the permit required herein, shall be guilty of a misdemeanor. (1971 Code, § 5-205)

CHAPTER 3

SHOWS, CARNIVALS, AND TENTED AMUSEMENTS

SECTION

9-301. Permits.

9-302. Permit issuance.

9-303. Insurance.

9-304. Appeals.

9-305. Penalty.

9-301. Permits. It shall be unlawful for any person, firm, or corporation to erect or cause to be erected, any temporary structure composed wholly or partly of canvas or similar material to be used as a place of amusement or for any religious, educational or recreational purposes or for any other public assemblages whatsoever within the limits of the City of Alcoa without first having made application to and received permission to do so in accordance with the conditions and limitations as set out by the city manager and title 7, chapter 2 of this code. (1971 Code, § 5-301)

9-302. Permit issuance. If the city manager or his designated representative finds that the provisions of this title are complied with, or will be complied with, by the applicant, he shall issue a permit to erect or maintain such structure conditional upon such reasonable limitations and requirements as he may deem necessary for the safety of persons and property.

(1) Upon completion of such structure, it shall not be used as a place of assembly until the building inspector has inspected the entire premises upon which the structure is located.

(2) If the building inspector finds that all of the limitations and requirements of the permit and this chapter have been complied with and that the structure has been erected in accordance with the plans and specifications submitted with the application, he shall grant a permit to occupy such premises.

(3) It shall be unlawful for any person to cause or permit the occupancy of such structure as a place of assembly, without the issuance of such permit to occupy such structure as provided for herein. (1971 Code, § 5-302)

9-303. Insurance. Before such permit is issued, and as a condition precedent thereto, the proprietor, manager or other person having charge or control of such circus, carnival or other similar enterprise shall deliver to the city manager or his designated representative a certificate of a qualified inspector that the machinery, equipment or other similar service intended for public amusement or recreation by such circus, carnival or other similar enterprise as erected in the City of Alcoa has been inspected and tested by him and found to be safe for use by the public; and shall deposit with said director

a public liability and property damage insurance policy, in form approved by the city attorney, in the sum of one hundred thousand dollars (\$100,000) for public liability and twenty thousand dollars (\$20,000) for property damage of some public liability insurance company authorized to do business in the State of Tennessee providing for the payment of any final judgment not to exceed the sum of fifty thousand dollars (\$50,000) for injury or death to one person or one hundred thousand dollars (\$100,000) for injury or death to more than one person, and ten thousand dollars (\$10,000) property damage in any one accident, that may be rendered against the proprietor, manager or other person having charge or control of such circus, carnival, or other similar enterprise resulting from the operation of such machinery, equipment or other similar device or growing out of the careless or negligent operation thereof by such proprietor, manager or other person having charge or control of the same or by any servant, agent or employee thereof. No such policy of insurance shall be approved by the city attorney or accepted by the city manager which contains any provision relieving the company from liability because of the failure of said proprietor, manager or other person having charge or control of such circus, carnival or other similar enterprise or of any servant, agent or employee thereof, to notify the company of the happening of any accident resulting in death, injury or property damage to any person. (1971 Code, § 5-303)

9-304. Appeals. If the city manager or his designated representative finds that such structure, or the premises on which it is located, is being maintained in violation of any of the provisions of the permit to erect or maintain any of the provisions of this title, or in such a manner as to constitute a fire hazard, he may revoke the permit to occupy provided for herein.

Any person, firm or corporation whose permit to occupy has been revoked as aforesaid may, within ten (10) days after receipt of a notice thereof, appeal to the Board of Code Appeals for a hearing thereon, and the decision of the board in this regard shall be final. If no appeal is taken within ten (10) days as provided herein the action of the building inspector shall be final. (1971 Code, § 5-304)

9-305. Penalty. Any person who violates any of the provisions of this title shall be guilty of a misdemeanor. Each day of violation constitutes a new offense. (1971 Code, § 5-305)

CHAPTER 4

POOL ROOMS

SECTION

- 9-401. Business hours regulated.
- 9-402. Minors prohibited - exceptions.
- 9-403. Records.
- 9-404. Forfeiture of license.

9-401. Business hours regulated. It shall be unlawful for any person or persons to keep open and use any pool room operated for profit within the corporate limits between 11:00 o'clock p.m. of each day and 6:00 o'clock a.m. of the following day or at anytime on Sunday. (1971 Code, § 5-401)

9-402. Minors prohibited - exceptions. It shall be unlawful for any person or persons engaged in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, to permit any minor to play on said tables at any game of billiards, bagatelle, pool or other games requiring the use of cue and balls, without first obtaining the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school.

The written permission specified in this section shall be acknowledged before a notary public, or the signatures of the parents, guardian, or other person having legal control of such minors shall, be witnessed by two witnesses, and shall be kept on file by the owners or proprietor of such pool room.

Provided further, it shall be unlawful for any proprietor, owner, or manager of any pool room, place or building, in which any bagatelle, pool, or billiard table is kept to allow minors to remain or loiter in such room, place, or building, except when playing pool under permission of those having the legal charge of such minor as hereinabove set out and provided for. (1971 Code, § 5-402)

9-403. Records. The owner, proprietor, or manager of any pool room shall keep a book wherein he enters the name and dates of each and every minor that plays pool in his pool room, and this book shall be kept open for inspection and the policeman of the City of Alcoa and other citizens shall have the right to inspect said book at any time during business hours. (1971 Code, § 5-403)

9-404. Forfeiture of license. If any person, proprietor, or manager of any pool room shall be convicted of violating this chapter as many as five (5)

times within one year, then he shall forfeit his license, and the same shall not be renewable for a period of one year thereafter. (1971 Code, § 5-404)

CHAPTER 5

TRANSITORY VENDORS

SECTION

9-501. Transitory vendors defined.

9-502. Transitory vendors permit.

9-503. Application for permit.

9-504. Bond required.

9-501. Transitory vendors defined. Transitory vendors means any person who brings into temporary premises and exhibits to the public, stocks of merchandise for the purpose of selling or offering to sell such merchandise to the public. (1971 Code, § 5-501)

9-502. Transitory vendors permit. It shall be unlawful for any transitory vendor to apply his trade as defined in § 9-501 without having first applied for and received from the city recorder a transitory vendor's permit so to do. (1971 Code, § 5-502)

9-503. Application for permit. Any person desiring to secure a transitory vendor's permit shall apply therefor in writing over his or her signature to the city recorder on forms provided by the municipality and such application shall state:

- (1) Name of applicant;
- (2) Complete permanent home and local address of the applicant and address where goods are to be sold;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom, establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) The last cities or villages, not to exceed three, where the applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities;
- (8) The personal description and complete identification of the applicant. (1971 Code, § 5-503)

9-504. Bond required. Each application for transitory vendor's permit shall be accompanied by a cash bond in the amount of \$1,000.00 running to the City of Alcoa, conditioned that the applicant shall comply fully with all the

provisions of this chapter and the statutes of the State of Tennessee regulating transitory vendors, and guaranteeing to any citizen of this municipality that the property purchased will be delivered according to the representations, and will be as represented by him, and that he will refund the purchase price of any goods sold by him which are not as represented. (1971 Code, § 5-504)

CHAPTER 6

SALES OR DISPLAYS DURING SPECIAL EVENTS

SECTION

- 9-601. Special events vendors defined.
- 9-602. Special events vendors' permit.
- 9-603. Application for permit.
- 9-604. Proof of insurance.

9-601. Special events vendors defined. The city may designate certain areas for entertainment and vendors selling food, drinks, crafts, arts and other items during the FreedomFest festival and such other special events as designated by the office of the city manager. For purposes of this division, a special event is defined as an event of a temporary nature which does not exceed one (1) week in duration and shall include FreedomFest, parades and other events as designated by the office of the city manager. (as added by Ord. #06-089, June 2006)

9-602. Special events vendors' permit. For purposes of this section, special events vendors may include "strolling" vendors as well as those of a stationary nature. No person(s) shall operate as a special events vendor, as defined, without first obtaining a permit from the city. Applications for the same will be available in the office of the city manager. The special events vendor's permit fee shall be determined by the special event and the office of the city manager. This vendor's permit is a separate and distinctly different category from a "transitory vendor's" permit or fee (see Chapter 5). (as added by Ord. #06-089, June 2006)

9-603. Application for permit. Any person desiring to secure a special events vendor's permit, whether selling or displaying their wares, shall apply therefore in writing over his or her signature to the office of the city manager on forms provided. (as added by Ord. #06-089, June 2006)

9-604. Proof of insurance. Each application for a special events vendor's permit shall be accompanied by certificate of insurance stating the limits of liabilities, with the City of Alcoa added as an additional insured for the special event. The minimum amount of liability insurance is five hundred thousand dollars (\$500,000). (as added by Ord. #06-089, June 2006)

CHAPTER 7

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-701. Title.
- 9-702. Definitions.
- 9-703. Prevention of sexual activity.
- 9-704. Involvement of minors.
- 9-705. Specified criminal activity by operators, employees, entertainers, and others.
- 9-706. Prohibited hours of operation.
- 9-707. Duties and responsibilities of operators, entertainers and employees.
- 9-708. Prohibited activities.
- 9-709. Reports.
- 9-710. Inspections.
- 9-711. Applicability of state statutes.
- 9-712. Violations.

9-701. Title. This chapter shall be known and may be cited as "The Sexually Oriented Businesses Ordinance." (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-702. Definitions. The following words, terms and phrases, when used in the chapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore," "adult novelty store" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or

(b) Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult cabaret" means a nightclub, bar, restaurant or similar establishment which regularly features:

(a) Persons who appear in a state of nudity or semi-nude; or

(b) Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered by opaque material or partially or completely covered by translucent material, including swim suits, lingerie, or latex covering; or

(c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant substantial portion of such exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

(5) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers sleeping room accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than ten hours.

(6) "Adult motion picture theater" means a commercial establishment where, as one of its principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(7) "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a

state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Codes department" means the department or division of the city which is authorized to enforce building codes and other provisions of the municipal code.

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

(10) "Entertainer" means any person who provides entertainment within a sexually oriented business 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.

(11) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to perform a striptease for another person.

(12) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(13) "Nude model studio" means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas," and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

(14) "Nudity or state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully

opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(15) "Operator" means a person operating, conducting or maintaining a sexually oriented business or a person who is identified in any report filed with the city as the operator of a sexually oriented business.

(16) "Sauna" means an establishment or place primarily in the business of providing for purposes of sexual stimulation:

- (a) A steam bath or dry heat sauna; or
- (b) Massage services.

(17) "Semi-nude" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part.

(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 that person or another person.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal 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) For purposes of sexual stimulation, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(20) "Sexually oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and 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 entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

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

(22) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
 - (i) Human genitals;
 - (ii) Pubic region;
 - (iii) Buttocks; and

(iv) Female breasts below a point immediately above the top of the areola, and

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

(23) "Specified criminal activity" means any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure, indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries; for which:

(a) Less than five years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offense;

(b) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed for the last conviction or plea, whichever is the later date, if the convictions or pleas are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;

provided further that the fact that conviction is being appealed shall have no effect whatsoever on the provisions of this article.

(24) "Specified services" means massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter.

(25) "Specified sexual activities" means:

(a) Human genitals in a state of sexual arousal;

(b) Acts of human masturbation, oral copulation, sexual intercourse or sodomy; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-703. Prevention of sexual activity. (1) No person who owns, operates or manages a sexually oriented business shall permit "specified sexual activities," as defined in the chapter, to occur on the premises.

(2) No commercial building, structure, premises or portion thereof shall be designed for or used to promote high-risk sexual contact.

(3) No person who owns, operates, causes to be operated or manages a sexually oriented business, other than an adult motel, which exhibits on the premises in any one or more viewing rooms or booths of less than 150 square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical area" shall cause or allow any deviation from the following requirements:

(a) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. No manager's station may exceed 32 square feet of floor area. If the premises has two or more manager's stations, then the interior of the premises shall be configured in such manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restroom, from at least one of the manager's stations. Each such area shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

(b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the codes department.

(c) At least one employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) No viewing room or booth may be occupied by more than one person at any time.

(e) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten foot candles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten foot candles at all times.

(f) No patron shall be permitted access to any area which has been designated as an area in which patrons will not be allowed.

(g) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any non-public areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet and shall be of light colored, nonporous, non-absorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or booths. No

person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

(h) All floor coverings in viewing rooms or booths shall be light colored, nonporous, non-absorbent, smooth textured, easily cleanable surfaces, with no rugs or carpeting.

(i) The premises shall be maintained in a clean and sanitary manner at all times.

(j) No occupant of a viewing room or booth shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity, cause any bodily discharge or litter while inside. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-704. Involvement of minors. An operator of a sexually oriented business is in violation of this chapter if:

(1) The operator is less than 18 years of age.

(2) Any officer, director, partner, stockholder or other individual having a direct or beneficial financial interest in the operator is less than 18 years of age, if the operator is a corporation, partnership or other form of business organization.

(3) Any employee of the sexually oriented business is less than 18 years of age.

(4) Any entertainer at the sexually oriented business is less than 18 years of age. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-705. Specified criminal activity by operators, employees, entertainers and others. (1) No person may own or operate a sexually oriented business within the city if:

(a) He has a record of "specified criminal activity," as defined in this chapter, if the owner or operator is an individual.

(b) Any officer, director, partner or other individual having at least a 10% direct or beneficial interest in the operator has a record of "specified criminal activity," as defined in this chapter, if the owner or operator is a corporation, partnership or other form of business organization.

(2) No operator of a sexually oriented business may allow any employee who has a record of "specified criminal activity," as defined in this chapter, to work on the premises of the business.

(3) No operator of a sexually oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this chapter, to perform on the premises of the business.

(4) No operator or employee of a sexually oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.

(5) No operator or employee of a sexually oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.

(6) The police department may any time investigate the criminal record of any person identified pursuant to § 9-709(4) or of any employee of a sexually oriented business or any entertainer performing at a sexually oriented business. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-706. Prohibited hours of operation. No sexually oriented business, except for an adult motel, shall be open between the hours of 11:00 P.M. and 8:00 A.M. No adult motel may allow any guest to check into a room between the hours of 11:00 P.M. and 8:00 A.M. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-707. Duties and responsibilities of operators, entertainers and employees. (1) The operator of each sexually oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security number, driver license or other state identification number and date of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment, and for a period of three years following termination.

(2) The operator shall make such information available for inspection immediately upon request by the city manager or his authorized representative or by the police department or codes department. Alternatively, if the city manager or his authorized representative, the police department or the codes department request that copies of any such information be delivered to them, the operator shall have such copies delivered within three days of the request.

(3) An operator shall be responsible for the conduct of all employees on the premises of the sexually oriented business and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act of omission of the operator.

(4) There shall be posted and conspicuously displayed in the common areas of each sexually oriented business a list of any and all entertainment and services provided on the premises. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager or his authorized representative or by the police department or codes department.

(5) No operator or employee of a sexually oriented business shall allow any person under the age of 18 years on the premises of a sexually oriented business.

(6) A sign shall be conspicuously displayed in the common area of the premises of each sexually oriented business, and shall read as follows:

This sexually oriented business is regulated by the City of Alcoa, Tennessee. Employees, entertainers and customers are not permitted to engage in any type of sexual conduct.

(7) Operators of sexually oriented businesses that provide "specified services," as defined in this chapter, for customers or patrons shall comply with the following requirements:

(a) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three years, showing:

- (i) "Specified service" provided.
- (ii) Cost of "specified service."
- (iii) Date and time of service provided.
- (iv) Name of person providing the "specified service."
- (v) Method of payment for service.

(b) Copies of all published advertisements for the business shall be kept for at least three years.

(c) Copies of the receipts and advertisements required under this section shall be available immediately upon request by the city manager or his authorized representative or by the police department or codes department.

(8) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the line of sight between the manager's station(s) and each viewing room or booth remains unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials.

(9) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the illumination required by this article is maintained at all times during business hours.

(10) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that no openings of any kind exist between viewing rooms or booths.

(11) The operator or his/her agent shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access to a viewing room or booth where such an opening exists. It shall be the duty of the operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-708. Prohibited activities. (1) No operator, entertainer or employee of a sexually oriented business shall perform or offer to perform any specified sexual activities on the premises of the business, or allow or encourage any

person on the premises to perform or participate in any specified sexual activities.

(2) 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 18 inches above the immediate floor level and removed at least six feet from the nearest entertainer, employee, and/or customer.

(3) No business shall advertise that it offers or provides any entertainment or services which would fall under the definitions of "sexual conduct," "sexual stimulation" or "specified sexual activities" as defined in this chapter.

(4) No operator or employee shall serve or allow to be served or consume any intoxicating liquor or malt beverage on the premises of a sexually oriented business.

(5) No operator or employee shall knowingly allow possession, use or sale of controlled substances on the premises of a sexually oriented business.

(6) The possession of weapons by a patron or customer on the premises of a sexually oriented business shall be prohibited. Notice of such prohibition shall be posted on the premises. No operator or employee shall knowingly allow a patron or customer on the premises of a sexually oriented business to have a weapon in his possession.

(7) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-709. Reports. Any person operating or desiring to operate a sexually oriented business shall file a report with the codes department at least 30 days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with and dated by the codes department upon receipt. One copy of the dated report shall be returned to the operator and one copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

(1) The name under which the sexually oriented business is or will be opened.

(2) The location and all telephone numbers for the sexually oriented business.

(3) The type of sexually oriented business which is being or will be operated, using the terms included in the definition of "sexually oriented business" provided in this chapter, if applicable, and a complete description of all types of entertainment and services provided or to be provided by the business.

- (4) If the operator is an individual, or for any individual who owns or will own at least a 10% direct or beneficial interest in the business:
- (a) Legal name and other names or aliases used by the individual.
 - (b) Mailing address and residential address and telephone number.
 - (c) Business address and telephone number.
 - (d) A recent photograph of the individual.
 - (e) Age, date and place of birth.
 - (f) Height, weight, and hair and eye color.
 - (g) Date, issuing state and number of the individual's driver's license or other state identification card information.
 - (h) Social security number.
 - (i) Proof that the individual is at least 18 years of age.
 - (j) The business, occupation or employment of the individual for five years immediately preceding the date of the report.
- (5) If the operator is a partnership:
- (a) The partnership's complete name.
 - (b) The names of all partners and the information required above for all individuals who own or will own at least a 10% direct or beneficial interest in the business.
 - (c) Whether the partnership is general or limited.
 - (d) A copy of any printed partnership agreement.
- (6) If the operator is a corporation:
- (a) The corporation's complete name, address and telephone number.
 - (b) The date and state of incorporation.
 - (c) The corporation's federal tax identification number.
 - (d) Evidence that the corporation is in good standing under the laws of the state of incorporation.
 - (e) The names and capacity of all officers, directors and principal stockholders and the information required above for all individuals who own or will own at least a 10% direct or beneficial interest in the business.
 - (f) The name and address of the registered corporate agent for the service of process.
- (7) The sexually oriented business or similar business history of the operator and of each individual listed under § 9-709(4) above, including:
- (a) The name and location of each sexually oriented business or similar business currently or previously owned or operated by such operator or individual.
 - (b) If the operator or individual is or was a partner, officer, or director or holds or held at least a 10% direct or beneficial interest in a partnership, corporation or other business entity which operates or

operated or is or was majority owner of any sexually oriented business or similar business, the name and location of each such business and the owning or operating business entity.

(c) Whether such operator or individual has had any license or permit issued to a sexually oriented business or similar business denied, suspended or revoked.

(d) The name and location of each sexually oriented business or similar business for which the license or permit was denied, suspended or revoked, and the dates and reasons for each suspension or revocation.

(8) Whether the operator or any of the operator's officers or directors or any individual listed under § 9-709(4) above has a record of any "specified criminal activity" as defined in this chapter, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

(9) If the premises are leased or being purchased under contract, a copy of such lease or contract.

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements or approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within 30 days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented business within 1,000 feet of the property of the business filing the report; the boundary lines of any residential zoning district within 1,000 feet of said property; and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence within 1,000 feet of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

(12) A signed statement by the operator that the operator is familiar with the provisions of this chapter and is and will continue to be in compliance therewith, provided that if the operator is not an individual, such statement shall be signed by each individual who owns or will own at least a 10% direct or beneficial interest in the operator.

(13) Any other reasonable available information determined by the city manager, codes department or police department to be necessary in determining whether the operator and the sexually oriented business meet the requirements

of this chapter. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-710. Inspections. In order to effectuate the provisions of this chapter, the police department, codes department, city manager and/or his authorize representatives are empowered to:

(1) Conduct investigations of the premises on any sexually oriented business or any business believed by any of them to be a sexually oriented business at any time such business is occupied or open for business.

(2) Inspect all licenses and records of any sexually oriented business and its operators and employees for compliance with this chapter at any time such business is occupied or open for business.

(3) Conduct investigation of persons engaged or believed to be engaged in the operation of any sexually oriented business. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-711. Applicability of state statutes. The provisions of this chapter are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)

9-712. Violations. (1) Each of the following acts and omissions shall be considered a civil offense against the city:

(a) Failure to file any report required under this chapter at the time required or submittal of false or misleading information or omission of any material facts in any report required under this chapter.

(b) Any operator, entertainer, or any employee of the operator violates any provision of this chapter.

(c) Any operator, employee or entertainer denies access to the police department, codes department, fire department, city manager or his authorized representatives to any portion of the premises of the sexually oriented business at any time it is open for business.

(d) Any operator fails to maintain the premises of a sexually oriented business in a clean, sanitary and safe condition.

(2) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually oriented business, of any part of this chapter, or any state statute regarding nudity, sexually oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this chapter, provided that such second or subsequent violation occurs after a judgment or conviction or plea of no contendere has been obtained for the previous such violation. (as added by Ord. #99-020, Aug. 1999, and renumbered by Ord. #06-089, June 2006)