

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

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9-101. "Going out of business sales." It shall be unlawful for any person to falsely represent a sale as being a "going out of business sale." A "going out of business sale," for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business sale," adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1972 Code, § 5-101)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

9-102. "Rummage sales." Except as herein provided it shall be unlawful for any person to hold or conduct a "rummage sale" or expose for sale used clothing, shoes, other wearing apparel, or merchandise of any kind, unless such person is a regularly licensed retail merchant or peddler. This section shall not apply to bona fide religious, charitable or nonprofit organizations, nor to persons selling their own personal property unless such property was acquired primarily for resale rather than personal use. (1972 Code, § 5-102)

9-103. Carnivals, etc. It shall be unlawful for any person to hold or conduct any carnival, fair, circus, or other similar show or exhibition within the corporate limits except during reasonable hours. Noise shall be restricted as required by the city manager. (1972 Code, § 5-103, modified)

9-104. Persons exhibiting samples in motel rooms, etc., and taking orders for future delivery. (1) Any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, motel room, lodging house, apartment, shop, or any other place within the city for the purpose of exhibiting samples and taking orders for future delivery must meet the requirements as outlined in title 9, chapter 2 of this code. (1972 Code, § 5-105, as amended by Ord. #917, April 2004)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
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- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
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9-201. 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.

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

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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-702.

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

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

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

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

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

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

¹State law reference

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, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

9-202. Exemptions. The terms of this chapter shall neither 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.

9-203. 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.

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the Finance Department 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 solicitations, 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.

(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 Finance Department 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 Finance Department, the Finance Department shall submit to the chief of police a copy of the application form and the permit.

9-205. 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, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-208. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the Finance Department 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 city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the city council, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the Finance Department 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.

9-209. 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.

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1972 Code, § 5-301)

9-302. Prerequisites for a permit. The office of finance shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1972 Code, § 5-302, as amended by Ord. #917, April 2004)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1972 Code, § 5-303)

Change 9, May 18, 2004

9-9.1

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1972 Code, § 5-304)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Hours of operation regulated.

9-402. Minors to be kept out; exception.

9-401. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct or operate any place where pool tables or billiard tables are kept for public use or hire prior to 1:00 p.m. on Sunday or between the hours of midnight and 6:00 a.m. on all days. (1972 Code, § 5-501)

9-402. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1972 Code, § 5-502)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

WRECKER AND TOWING SERVICE

SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. Wrecker classifications.
- 9-504. Permit required.
- 9-505. Administrator.
- 9-506. Application for license.
- 9-507. Application for permit, application fee, expiration date, and renewal.
- 9-508. Investigation of applicant.
- 9-509. Required equipment and standards.
- 9-510. Notification required for vehicles held over thirty days.
- 9-511. Insurance.
- 9-512. Billing and charges for city approved wreckers.
- 9-513. Regulations for city approved wrecker.
- 9-514. Permit revocation/suspension.
- 9-515. Vehicles to be towed to place designated by owner-coercion at scene of accident prohibited.
- 9-516. Wreckers to go to scene of accident on call of owner or police only.
- 9-517. Solicitation of towing work by operator, etc., of towing car prohibited.
- 9-518. Solicitation of business by city employees.
- 9-519. Owner's request wreckers.

9-501. Purpose. The purpose of this chapter is:

- (1) To establish regulations and procedures to license wrecker operators for the purpose of providing a rotation call list procedure for those operators who apply to remove wrecked or disabled vehicles at the request or call of the Athens Police Department;
- (2) To further ensure the safe and efficient removal, storage and safekeeping of any and all transport vehicles being towed and placed into the custody of such wrecker services;
- (3) To utilize only those wrecker services whose equipment, procedures and services conform to the following rules and regulations. (1972 Code, § 5-601)

9-502. Definitions. For the purposes of this chapter the following words and phrases shall have the meaning respectively ascribed to them by this section:

- (1) "Wrecker or towing operator" is any person engaged in the business of or offering the services of a wrecker or towing service, whereby motor vehicles

are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose;

(2) "Storage" consists of storing a motor vehicle within a building or lot being used by the towing operator as their place of business;

(3) "City approved wrecker" is all wreckers or towing operators licensed by the city under this chapter who qualify to be placed on the rotation call list to respond to requests for towing of vehicles made by the city. The city does not assume any responsibility for negligence or damage caused by wrecker or towing operator. (1972 Code, § 5-602)

9-503. Wrecker classifications. For purposes of this chapter, wreckers are classified into four classes: Class A, Class B, Class C, and Class D, with minimum requirements for each classification as follows:

(1) Class A: For towing passenger cars, pick-up trucks, small trailers, etc.

(a) The tow truck chassis shall have a minimum manufacturers capacity of one (1) ton (10,000 pounds G.V.W.);

(b) Individual boom capacity of not less than four tons;

(c) Individual power winch pulling capacity of not less than four (4) tons;

(d) One hundred (100) feet or more of 3/8-inch cable or larger on each drum;

(e) Belt-type cradles, tow plate, or tow sling to pick up vehicles, with the cradle of the tow plate to be equipped with safety chain;

(f) Dollies or damage free wheel pick up.

(2) Class B: For towing medium size trucks, trailers, etc.

(a) The tow truck chassis shall have a minimum manufactures capacity of one and one-half (1-1/2) tons (18,000 G.V.W.);

(b) Boom specifications as follows:

(i) Double booms so constructed as to permit splitting with each boom to operate independently or jointly with individual boom capacity of no less than eight (8) tons and individual power winch pulling capacity of no less than eight (8) tons; or,

(ii) Single boom with no less than sixteen (16) tons capacity and a power winch pulling capacity of no less than sixteen (16) tons.

(c) Two hundred (200) feet or more of at least 7/16 inch cable or larger on each drum; and

(d) Cradle tow plate or tow sling to pick up vehicles, with the cradles of the tow plate to be equipped with safety chain.

(3) Class C: For towing large trucks, road tractors and trailers.

(a) The tow truck chassis shall have a minimum manufacturers capacity of not less than three (3) tons (30,000 G.V.W.);

(b) Boom specifications as follows:

(i) Double booms so constructed as to permit splitting with each boom to operate independently or jointly with individual boom capacity of no less than twelve and one-half (12 ½) tons and individual power winch pulling capacity of no less than twelve and one-half (12 ½) tons; or

(ii) Single boom with no less than twenty-five (25) tons capacity and a power winch pulling capacity of no less than twenty-five (25) tons.

(c) Two hundred (200) feet or more of 9/16 inch cable or larger on each drum;

(d) Air brakes so constructed as to lock wheels automatically upon failure.

(4) Class D: Vehicle transporters designed to tow or carry passenger cars, pick-up trucks, small trailers, etc., "damage-free". This classification includes "Wheel Lift" and "Car Carrier" or "Rollback" type vehicle transporters.

(a) Wheel Lift: wreckers possessing equipment capable of lifting the vehicle by the wheels only, with nothing touching the vehicle body.

(i) Wheel lift wreckers shall meet all Class "A" requirements excluding the belt-type cradle tow plate or tow sling.

(ii) Safety restraint straps (nylon straps with ratchets or the equivalent), shall be provided to secure the towed vehicle tires into the wheel lift forks.

(b) Car carrier vehicle transporters:

(i) The truck chassis shall have minimum manufacturer's capacity of one (1) ton (10,000 pounds G.V.W.R.);

(ii) Lift cylinders, two (2) with a minimum three (3) inch bore each or one (1) with a minimum five (5) inch bore;

(iii) Individual power winch pulling capacity of not less than four (4) tons;

(iv) Fifty (50) feet or more of 5/16 inch or larger cable on winch drum;

(v) Two (2) safety chains for securing vehicle to carrier bed;

(vi) Carrier bed shall be a minimum of sixteen (16) feet in length and a minimum of eighty-four (84) inches in width inside side rails;

(vii) Cab protector, constructed of solid steel or aluminum, that extends a minimum of ten (10) inches above the height of the bed. (1972 Code, § 5-603)

9-504. Permit required. Permits shall be granted only for "city approved wreckers" as provided herein. Wrecker or towing operators desiring to engage in the business of or offer the services of, a wrecker or towing service as a city

approved wrecker upon the streets of the City of Athens, Tennessee, shall be issued a permit as provided by this chapter for each wrecker operated by said wrecker or towing operator. Permits shall be issued for a Class A through Class D wrecker as the vehicles meet the requirements of § 9-503. Any wrecker service utilized by the City of Athens shall be properly licensed and insured. Every person qualified under this chapter shall be issued a permit by the city finance director for each wrecker approved by the city manager, which permit shall at all times be kept, with each wrecker. Such permit shall have printed thereon the year for which it is valid. (1972 Code, § 5-604)

9-505. Administrator. (1) The city manager or his designated agent shall be the administrator of the provisions of this chapter;

(2) The city manager shall approve permits, revoke or suspend permits, and otherwise administer the provisions of this chapter;

(3) The action of the city manager in granting or refusing a permit or in revoking or suspending a license shall be final except as it may be subject to review as provided by law. (1972 Code, § 5-605)

9-506. Application for license. Any person applying for qualifications as a city-approved wrecker shall provide the following information and assurances:

(1) Name and address of the person, firm, or corporation desiring the license.

(2) The location and full description of all property to be utilized in connection with the business.

(3) The number of wreckers or towing cars owned or available for use by the applicant and a description of each wrecker sufficient to determine a proper classification under § 9-503. (i.e., Class A, Class B, etc.).

(4) All wreckers are properly equipped for the applicable classification set forth in § 9-503 and contain required equipment set out in § 9-509.

(5) The wrecker or towing operator will accept responsibility for any and all personal property left in towed or stored vehicles.

(6) Maintain available space secured by fence or natural barrier sufficient to deter trespassing or vandalism for all disabled motor vehicles to be towed or otherwise removed from the place where they had been disabled.

(7) The applicant will provide twenty-four (24) hour service, including holidays, and that he will have a qualified operator on duty at all times for each city approved wrecker location licensed hereunder.

(8) The wrecker or towing operator will not release any vehicles impounded by the city without authorization by the police department, that a file will be maintained on all vehicle release forms and that this file will be made available for police inspection upon request. When no hold order is placed, the vehicle shall be released to the owner upon proof of ownership and when the necessary financial transactions between vehicle owner and wrecker service are completed.

(9) The applicant will maintain a minimum of one (1) properly equipped and licensed wrecker throughout the year for which application is being made.

(10) All local ordinances will be met in regards to vehicle storage, i.e., abandoned vehicle ordinances; and that failure to comply within thirty (30) days of notice will immediately eliminate the city approved status.

(11) A listing of fees and charges for common towing services and for storage of disabled vehicles which the applicant shall agree will not be increased during the applicable calendar year except as provided for in § 9-512(6). If the city manager finds that such charges are excessive in any particular case, the operator shall be notified and the application for a city approved wrecker permit denied, unless the applicant shall agree to reduce those charges deemed excessive.

(12) Wrecker service owners with a felony conviction will not be allowed a permit for a city approved wrecker. (1972 Code, § 5-606)

9-507. Application for permit, application fee, expiration date, and renewal. (1) Any applicant for a permit under this chapter shall be charged an application fee of forty dollars (\$40.00). This initial fee shall cover all permits required for each wrecker owned and operated by the applicant.

(2) If an applicant changes his business location, or, adds or substitutes a new or different wrecker, there shall be a supplemental fee of ten dollars (\$10.00).

(3) There shall be an annual permit renewal fee of twenty dollars (\$20.00).

(4) All permits shall expire on December 31. (1972 Code, § 5-607)

9-508. Investigation of applicant. The city manager shall cause to be investigated each applicant for a license to determine whether or not the applicant has the necessary equipment and facilities to qualify as a wrecker operator, and if the applicant is qualified, shall recommend to the city manager that a city approved wrecker permit be issued to the applicant. The city manager or his agent may inspect licensee's equipment or facilities at any time during business hours. The city manager shall be advised when any rate in an application appears to be excessive upon consideration of the factors set forth in § 9-513. The city manager shall direct or make such further investigation as he deems proper and grant or refuse a permit in his discretion. (1972 Code, § 5-608)

9-509. Required equipment and standards. In addition to the equipment required under the applicable wrecker classifications set forth in § 9-503, all wreckers shall have and maintain additional equipment and standards as follows:

(1) A least one (1) functional, amber-colored, rotor-beam type light shall be mounted on the top of the wrecker. No other color will be approved. All emergency flashers and directional lights showing to the front must be amber in color.

(2) At least one heavy-duty push broom;

(3) Flood lights on hoist to illuminate scene at night;

(4) One shovel;

(5) One axe;

(6) One pinch bar, pry bar or crowbar;

(7) One set of bolt cutters;

(8) A 20-pound class ABC underwriter laboratory approved fire extinguisher, a 2.7 pound Halon 1301/1211 fire extinguisher or equivalent fire extinguisher adequately charged.

(9) The appearance of wreckers shall be reasonably good with equipment painted.

(10) All tow trucks shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides. Magnetic signs will not be permitted. All lettering shall be at least three (3) inches high.

(11) It is the responsibility of the wrecker service to have equipment for removing glass and other debris from the highway accident scene. It is the responsibility of the wrecker operator to remove such debris from the highway.

(12) Sirens on wreckers or service trucks are prohibited.

(13) City approved wreckers shall have the capability of radio dispatch. (1972 Code, § 5-609)

9-510. Notification required for vehicles held over thirty days. The Tennessee Department of Revenue will be notified of all vehicles held over thirty (30) days, except when arrangements for longer storage are made by the owner, as required by Tennessee Code Annotated, § 55-16-101. (1972 Code, § 5-610)

9-511. Insurance. Before the city manager shall approve any license under this chapter including a renewal license, the applicant shall deposit with the city manager a certificate of insurance showing that the applicant has in force a policy issued by an insurance company authorized to transact business in the State of Tennessee as follows:

(1) Insurance must be sufficient to compensate for any loss of, or damage to, property entrusted to the wrecker service.

(a) Minimum vehicle liability amounts

(i) Class A and D wrecker classification - \$300,000

(ii) Class B wrecker classification - \$500,000

(iii) Class C wrecker classification - \$750,000

(b) While in the care, custody, and control of the wrecker service operator, garage keepers liability to cover any loss by fire, theft, explosion, and collision.

(2) The certificate of insurance must contain an endorsement providing for a minimum of ten days notice to the city in the event of any cancellation of the policy.

(3) The owner of the wrecker service shall make written notification of any changes in insurance coverage (i.e., changing companies, vehicles, etc.) to the city manager within ten (10) days prior to the change. (1972 Code, § 5-611)

9-512. Billing and charges for city approved wreckers. The applicants for a city approved wrecker permit shall be subject to regulation as to billing and charges for any call from the police department referred to the city approved wrecker under the call rotation system as follows:

(1) The owner of a wrecker or towing car shall have prepared billheads with his name and the address of his place of business printed thereon. The operator of the wrecker before towing a disabled vehicle shall prepare a bill on this billhead form in duplicate, the original of which shall be given to the owner of the disabled vehicle or his authorized representative if available at the scene. This bill shall contain the following information:

(a) Name and address of person engaging towing car.

(b) State license number of disabled vehicle.

(c) Storage rates per day or part thereof.

(d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

(2) The duplicate copy of the bill shall be retained by the wrecker or towing car owner for a period of one (1) year, and shall be subject to inspection by the city manager or his duly authorized representative.

(3) All charges for towing and storing a disabled vehicle, or other related charges, shall be reasonable.

(4) All applicants for a permit shall file with their application a schedule of charges for routine services proposed to be charged for the calendar year for which the application is filed. This form shall be approved by the city manager. The city manager shall review the proposed charges and determine whether or not they are excessive. No application for a city approved wrecker shall be approved if the city manager determines any portion of the fees to be excessive. Applicants may modify their proposed schedule of charges to reduce charges that the city manager determines to be excessive. The city manager shall consider the following factors in determining the reasonableness of charges for routine services:

- (a) The average charge for such services proposed by applicants for the ensuing calendar year;
 - (b) The median charge for such services proposed by applicants for the ensuing calendar year;
 - (c) The cost and labor, materials, equipment, and the reason for providing such services;
 - (d) Fees charged for similar services in this community or for other similar communities in Tennessee.
- (5) There may be a surcharge of one-half of the basic towing fees for calls which are dispatched outside normal business hours.
- (6) Any change of rates shall be forwarded to the city manager no later than ten (10) days prior to the proposed change. (1972 Code, § 5-612)

9-513. Regulations for city approved wrecker. A city approved wrecker permittee shall follow these procedures:

- (1) Permittees will not be permitted to operate wrecker equipment, under more than one company name, out of the same location. A spouse, child or children, sibling, son-in-law, daughter-in-law, partner, stockholder, or any other person having an interest in a business shall not be permitted to operate another wrecker out of the same location.
- (2) Each city approved wrecker must have distinct and separate storage facilities.
- (3) All permittees are expected to be familiar and comply with the traffic laws of the City of Athens and the State of Tennessee.
- (4) Permittees will be familiar with and abide by all provisions of this chapter.
- (5) No permittee shall charge unreasonable rates for services rendered.
- (6) Permittees shall be available for twenty-four (24) hours service with vehicles in proper operating condition and a qualified operator on duty.
- (7) Operators shall carry vehicles to any destination within the City of Athens at the owner's or operator's request when charges therefor have been prepaid.
- (8) Permittees shall have a telephone number prominently posted for after-hours release of vehicles. The permittees may make an additional charge for releasing a vehicle other than during normal business hours, except when the location is otherwise open for business.
- (9) The police department may direct that a police impoundment be towed to a city lot at no additional charge.
- (10) Amber lights are to be used in the immediate vicinity of a wreck and while towing a vehicle.
- (11) All operators shall respond to a wreck within fifteen (15) minutes, with an additional five (5) minute grace period for those wrecker services enroute, after being called, and except for extenuating or unusual circumstances, a response must be made within this time after the dispatch

request is made to the wrecker operator. If the wrecker is engaged elsewhere or for any reason the wrecker operator cannot reasonably expect to respond within the above specified time, it shall be the duty of the wrecker operator to so advise the Police Department and decline to accept the call, whereupon the next wrecker operator on rotation shall be called. Class C wreckers shall be granted additional time to respond to a tow for a large truck, road tractor and trailers.

(12) No permittee shall refer or delegate police calls to other wrecker companies.

(13) No answering service, paging service or similar service or procedure may be used to forward a call to an owner or employee of the wrecker service during normal business hours. The operator may provide for an after-hours number which shall be provided to the city manager.

(14) The first city approved wrecker operator at the scene shall tow the vehicle causing the greatest hazard as directed by the investigating police officer.

(15) No repairs or other additional services shall be performed except on written request of the owner.

(16) Wrecker or towing operators who fail to answer a call will lose the call. If two (2) calls are missed, an investigation will be made and suspension or removal as a city approved wrecker will be considered. Operators refusing a call or failing to respond promptly to a call may be removed as a city approved wrecker.

(17) If additional equipment or recovery vehicles are needed to adequately complete a tow (i.e., tractor-trailer roll-over or difficult auto recovery), discretion of the responding wrecker service should be used in deciding what and whose additional equipment will be required. The severity of the situation and the estimated response time of additional equipment will be weighed by the officer at the scene, who is the deciding authority. (1972 Code, § 5-613)

9-514. Permit revocation/suspension. (1) The city manager shall revoke or suspend the permit of any permittee on any of the following grounds:

(a) If the permit was procured by fraudulent conduct or false statement of a material fact or a fact concerning the applicant which was not disclosed at the time of his making the application that would have constituted just cause for refusing to issue the license.

(b) Failure of a city approved wrecker permittee to have an operable and properly equipped wrecker and qualified operator on duty at all times or to promptly respond to police calls.

(c) If the city approved wrecker permittee has knowingly overcharged or consistently overcharges.

(d) A violation of any provision of this chapter.

(e) The city manager may revoke or suspend a permit for due cause not specified herein.

(2) Revocation of a permit shall terminate all authority and permission granted by such permit to the licensee. Any person whose permit has been revoked shall not be eligible to again apply for a license for a period of one (1) year from the date of such revocation. Suspension of a permit shall be decided on a case-by-case basis. An appeal of a revocation or suspension may be made to the city manager. (1972 Code, § 5-614)

9-515. Vehicles to be towed to place designated by owner-coercion at scene of accident prohibited. The wrecker operator may tow the wrecked or disabled vehicle to the operator's place of business; provided, if the owner or agent of the wrecked or disabled vehicle pays or secures the towing charges, then the wrecker operator shall pull the vehicle to any place designated by said owner or agent. It shall be unlawful for the owner of a wrecker, his agent, employee or representative at the scene of any accident to high-pressure or otherwise to coerce or insist upon any owner of a wrecked or disabled vehicle to sign a work order or agreement at the scene of the accident for any repairs to be made on such wrecked or disabled vehicle. (1972 Code, § 5-615)

9-516. Wreckers to go to scene of accident on call of owner or police only. It shall be unlawful for any wrecker operator, or his agent or representative, to go to any place where an accident has occurred unless called by the driver or owner of a disabled vehicle, or his authorized representative, or by the police department dispatcher. In any event, the wrecker shall clear with the police dispatcher before going to the accident scene. It shall be unlawful for the owner of any wrecker or towing car, or his agent or representative, to go to the place of a wreck by reason of information received by shortwave or police radio. (1972 Code, § 5-616)

9-517. Solicitation of towing work by operator, etc., of towing car prohibited. It shall be unlawful to drive along any street and solicit towing work. A wrecker operator shall not proceed to the scene of a disabled motor vehicle without having been requested or notified to do so, as provided in § 9-516 of this code. Responding to a call upon notice from gas station attendants, taxicab drivers or unauthorized persons shall be considered a violation of this chapter. (1972 Code, § 5-617)

9-518. Solicitation of business by city employees. It shall be unlawful for any city employee to solicit business for any wrecker or towing car operator. Any employee guilty of violating the provisions of this section shall be subject to disciplinary action up to and including termination. (1972 Code, § 5-618)

9-519. Owner's request wreckers. Police officers shall honor the request of the owner or operator of a wrecked or disabled vehicle to call a particular wrecker service, whether a city approved wrecker or not. The officer shall radio the dispatcher who shall contact the wrecker operator requested to determine if the operator is willing and able to respond to the scene of the wreck for a disabled motor vehicle within twenty (20) minutes, or, within thirty (30) minutes for a Class C wrecker. If so, the dispatcher shall dispatch the operator requested. The City of Athens assumes no liability or responsibility regarding owner's requested wreckers. If there is any traffic hazard or other reason why the vehicle cannot be left unattended or the requested operator cannot respond within the applicable time limit then the dispatcher shall dispatch a city approved wrecker. (1972 Code, § 5-619)

CHAPTER 6

AMBULANCE SERVICE

SECTION

- 9-601. Definitions.
- 9-602. Certificate of public convenience and necessity required.
- 9-603. Application for ambulance certificate.
- 9-604. Standards for ambulance vehicles.
- 9-605. Duties of city manager.
- 9-606. Issuance or transfer of certificate.
- 9-607. Standards for ambulance equipment.
- 9-608. Application for drivers', attendants', and attendant drivers' permits.
- 9-609. Standards for drivers', attendants', and attendant drivers' permits.
- 9-610. Renewal of permit.
- 9-611. Revocation of certificate.
- 9-612. Rates.
- 9-613. Penalty.

9-601. Definitions. Wherever used in this chapter the following terms shall be construed as set out herein:

(1) "Ambulance" - means any privately or publicly owned motor vehicle that is specially designed or constructed and equipped and is intended to be used for, and is maintained and operated for, the transportation of patients.

(2) "Attendant" - means a trained qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

(3) "Attendant-driver" - means a person who is qualified as an attendant and a driver and who has a chauffeur's license issued by the State of Tennessee.

(4) "Certificate" - means a certificate of public convenience and necessity, issued by the city council under the provisions of this chapter, authorizing the holder thereof to conduct an ambulance service in the city.

(5) "Patient" - means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

(6) "Person" - means any individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, or an organization of any kind. (1972 Code, § 5-701)

9-602. Certificate of public convenience and necessity required. (1) No person, either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to be engaged in the business or service of transporting patients upon the streets, alleys, or any public way or place of the city, unless he holds a currently valid certificate of

public convenience and necessity for such ambulance business or service issued by the council pursuant to the provisions of this chapter.

(2) No ambulance shall be operated for ambulance purposes, and no individual shall drive, attend, or permit it to be operated for such purposes on the streets, alleys, or any public way or place in the city unless it shall be under the immediate supervision and direction of a person who is holding a currently valid license as an attendant-driver or attendant.

(3) Provided, however, that no such certificate or license shall be required for an ambulance or for the driver, attendant, or attendant-driver of an ambulance which is:

(a) rendering assistance in the case of a major catastrophe or emergency with which the certificated ambulances of the city are insufficient or unable to cope; or

(b) is operated from a location or headquarters outside of the city in order to transport patients who are picked up beyond the city limits to locations within the city, but no such outside ambulance shall be used to pick up patients within the city for transportation to locations within the city unless the driver, attendant, and attendant-driver and the person subject to the provisions of § 9-602(1) of this chapter in respect of such ambulance, hold currently valid certificates and licenses issued pursuant to this chapter. (1972 Code, § 5-702)

9-603. Application for ambulance certificate. Applications for an ambulance certificate hereunder shall be made upon such forms as may be prescribed or approved by the city manager and shall contain:

(1) The name and address of the applicant and of the owner of the ambulance.

(2) The trade or other fictitious name, if any, under which the applicant does business or proposes to do business.

(3) The training and experience of the applicant in the transportation and care of patients.

(4) A description of each ambulance, including the make, model, year of manufacture, and current state license number.

(5) That such applicant shall have service available at all times.

(6) That such applicant shall have in effect liability insurance for such ambulances in the amount of \$10,000 - \$20,000 for personal injury and \$5,000.00 for property damage. Copies of said policies shall be filed with the city before a certificate is issued by the city.

(7) Such other information as the city manager shall deem reasonably necessary to a fair determination of compliance with this chapter. (1972 Code, § 5-703)

9-604. Standards for ambulance vehicles. (1) Each ambulance shall, at all times when in use as such:

(a) be suitable for the transportation of patients from the standpoint of health, sanitation, and safety, and be maintained in suitable premises;

(b) contain equipment conforming with the standards, requirements, and regulations provided for herein, which equipment shall be in proper and good condition for such use;

(c) currently comply with and obey all applicable laws and local ordinances relating to health, sanitation, and safety;

(d) be equipped with such lights, siren, and special markings to designate it as an ambulance as may be prescribed by law and in reasonable regulations, if any, promulgated by the city manager;

(e) be equipped with two-way radio equipment in good working order;

(f) be manned by at least two persons, when possible, consisting of a driver and an attendant or driver-attendant and an attendant, unless otherwise ordered by a member of the medical profession.

(2) Each approved ambulance vehicle, its equipment, and the premises designated in the application, and all records relating to its maintenance and operation as such, shall be open to inspection by the city manager or his designated representative during usual hours of operation.

(3) No official entry made upon a certificate may be defaced, removed, or obliterated. (1972 Code, § 5-704)

9-605. Duties of city manager. The city manager shall, within thirty (30) days after receipt of an application for an ambulance certificate as provided for herein, cause such investigation as he deems necessary to be made of the applicant and of his proposed operations. If the city manager finds:

(1) That the public convenience and necessity requires the proposed ambulance service;

(2) That such ambulance and its equipment are in satisfactory condition;

(3) That the applicant is a responsible and proper person to conduct or work in the proposed business;

(4) That only duly licensed drivers, attendants, and attendant-drivers are or will be employed in such capacities; and

(5) That all the requirements of this chapter and all other applicable laws and ordinances have been met; then the city manager shall recommend to the council that the council issue a certificate to the applicant; otherwise, the city manager shall recommend to the council that the application be denied. The applicant and other certificate holders, if any, shall be given notice of the meeting of council when the report of the city manager will be considered. The decision of the council on the matter will be final. (1972 Code, § 5-705)

9-606. Issuance or transfer of certificate. The certificate, when issued, shall be filled out in duplicate and shall contain the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance. One copy shall be retained in the files of the city manager and the applicant shall receive the other copy. Such certificate shall be effective until cancelled and shall expire when the holder thereof fails for a period of thirty (30) days to operate an ambulance service within the city in accordance with such certificate. Certificates shall not be transferable except upon the written consent of the city manager endorsed on such certificates.

At least ninety (90) days written notice to the city manager shall be required for a certificate holder to voluntarily cease the operating or rendering of ambulance services in the city. (1972 Code, § 5-706)

9-607. Standards for ambulance equipment. (1) Equipment required in each ambulance shall include, at all times when the ambulance is in use as such, equipment adequate for dressing wounds, splinting fractures, controlling hemorrhage, and oxygen equipment complete with pressure regulator with one (1) hours supply at normal rate of usage.

(2) A log shall be kept in said vehicle at all times and the operator shall maintain a complete record of all trips, persons transported, and other information required by the city manager. (1972 Code, § 5-707)

9-608. Application for drivers', attendants', and attendant-drivers' permits. Applications for drivers', attendants' and attendant-drivers' permits hereunder shall be made upon such forms as may be prepared or prescribed by the chief of police and shall contain:

(1) The applicant's full name, current residence, places of residence for three (3) years previous to moving to his present address, and the length of time he has resided in the city.

(2) The applicant's age, marital status, height, color of eyes and hair.

(3) Whether he has ever been convicted of a felony or misdemeanor, and, if so, when and where and for what cause.

(4) The applicant's training and experience in the transportation and care of patients, and whether he has previously been licensed as a driver, chauffeur, attendant or attendant-driver, and if so, when and where, and whether his license has ever been revoked or suspended in any jurisdiction and for what cause.

(5) Affidavits of good character from two reputable citizens of the United States who have personally known such applicant and observed his conduct during three (3) years next preceding the date of his application.

(6) Two (2) recent photographs of the applicant, of a size designated by the chief of police, one of which shall be attached by the chief of police to the permit.

(7) Such other information as the chief of police shall deem reasonably necessary to a fair determination of compliance with this chapter. (1972 Code, § 5-708)

9-609. Standards for drivers', attendants', and attendant-drivers' permits. (1) The chief of police shall, within a reasonable time after receipt of an application as provided for herein, cause such investigation as he deems necessary to be made of the applicant for a driver's, attendant's, or attendant-driver's permit.

(2) The chief of police shall issue a permit to a driver, attendant, or attendant-driver hereunder, valid for a period of three (3) years, unless earlier suspended, revoked, or terminated, when he finds that the applicant:

(a) is not addicted to the use of intoxicating liquors or narcotics, and is morally fit for the position;

(b) is able to speak, read, and write the English language;

(c) has been found by a duly licensed physician to be of sound physique, possessing eyesight corrected to at least 20/40 in the better eye, and free of physical defects or diseases which might impair the ability to drive or attend an ambulance; and

(d) for each applicant for attendant's or attendant-driver's permit, that such applicant has a currently valid certificate evidencing successful completion of a course of training equivalent to the advanced course in first aid given by the American Red Cross.

Provided, however, that no one shall be issued a permit as a driver or attendant-driver unless he holds a currently valid chauffeur's permit from the State of Tennessee and is eighteen (18) years of age.

(3) A permit as driver, attendant, or attendant-driver issued hereunder shall not be assignable or transferable.

(4) No official entry made upon a permit may be defaced, removed, or obliterated. (1972 Code, § 5-709)

9-610. Renewal of permit. Renewal of any permit hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this chapter. (1972 Code, § 5-710)

9-611. Revocation of certificate. (1) The city manager may, and is hereby authorized to, suspend, or revoke a certificate issued hereunder for failure of a certificate holder to comply and to maintain compliance with, or for his violation of, any applicable provisions, standards, or requirements of this chapter, or of regulations promulgated hereunder, or of any other applicable laws or ordinances or regulations promulgated hereunder, but only after a warning and such reasonable time for compliance as may be set by the city manager. Within ten (10) days after a suspension, the certificate holder shall be afforded a hearing, after reasonable notice. The city manager shall, within ten (10) days

after conclusion of such hearing, issue a written decision (which shall include written findings) as to the suspension of said license. Such written decision shall be promptly transmitted to the licensee to whom it refers. An appeal from the decision of the city manager may be made to the council.

(2) Upon suspension, revocation, or termination of an ambulance certificate hereunder, such ambulance shall cease operations as such and no person shall permit such ambulance to continue operations as such. Upon suspension, revocation, or termination of a driver's, attendant's, or attendant-driver's permit hereunder, such driver, attendant, or attendant-driver shall cease to drive or attend an ambulance and no person shall employ or permit such individual to drive or attend an ambulance. (1972 Code, § 5-711)

9-612. Rates. The rate to be charged for the transportation of a patient from one point within the city to another within the city shall be twenty dollars (\$20.00). When trips are made beyond the city limits, an additional mileage charge of 50 cents per mile one way will be made for the distance the patient is transported beyond the city limits. If it is necessary to wait for patient, a waiting charge of \$5.00 per hour may be made. (1972 Code, § 5-712)

9-613. Penalty. Any person who shall violate any of the provisions of this chapter for which no other penalty is provided shall be punished under the general penalty clause for this code of ordinances. (1972 Code, § 5-713)

CHAPTER 7

BUILDING TRADESMEN

SECTION

- 9-701. Definitions.
- 9-702. Building tradesmen to be licensed.
- 9-703. Procedure for qualification of building tradesmen.
- 9-704. Issuance and term of license.
- 9-705. Illegal work-revocation of licenses.
- 9-706. Allowing name or license to be used fraudulently.
- 9-707. Permit required.

9-701. Definitions. Building tradesmen (hereinafter referred to as the trades) includes the following occupations: electricians, plumbers, and mechanical (heat ventilation, & air conditioning "HVAC") contractors, but not limited to these occupations.

9-702. Building tradesmen to be licensed. Before any person or corporation, shall perform any trade in the City of Athens, they shall be qualified as set forth herein and a license shall be obtained from the city, or they must hold a valid State of Tennessee contractors license for their particular trade.

9-703. Procedure for qualification of building tradesmen. Any person or corporation, that desires to do work in the City of Athens, shall make application with the department of community development and having verifiable proof of a minimum of five (5) years experience in the trade in which they are seeking licensing in or by showing proof of passing the trade examination given by the State of Tennessee Board of Licensing Contractors. Said person or corporation shall pay all necessary city license fees that are applicable at that time, and shall abide by all city ordinances. (as replaced by Ord. #904, Oct. 2002)

9-704. Issuance and term of license. Licenses shall be issued annually by the department of community development to all applicants who comply with the requirements of this chapter. All licenses shall carry an expiration date of December 31st of each year with a grace period extending through March 31st of the next year. The fee for license renewal shall be set by the department of community development, and must be submitted to the City of Athens before March 31st. Contractors with a State of Tennessee license shall pay all licensing fees as set forth by the City of Athens Department of Community Development. (as renumbered and amended by Ord. #904, Oct. 2002)

9-705. Illegal work-revocation of licenses. Any person or corporation, engaged in doing work in any of the above mentioned trades, which does not conform to the applicable codes adopted by the City of Athens, or whose workmanship or materials are of inferior quality, shall on notice from the appropriate inspector, make necessary changes or corrections at once so as to conform to the applicable code. If such work has not been corrected after ten (10) days notice from the inspector, the inspector shall then refuse to issue further permits to such licensee until his work has been made to fully comply with the applicable code. The building inspector may revoke any license issued hereunder for continuous violations. When the revocation of any license is to be considered, the person to whom the license has been issued shall be given seven (7) days notice in writing of the revocation of the license. Such notice shall state the reasons for the revocation and shall inform the licensee of the appeals process, whereby upon the request of the licensee, the building inspector shall present his charges resulting in revocation to the board of adjustments and appeals. During the appeal process, the licensee shall be allowed to appear in his own behalf, to be represented by legal counsel, and to present witnesses. It shall be the responsibility to the board of adjustments and appeals to render a decision to concur with the revocation or to reinstate the license. (as renumbered and replaced by Ord. #904, Oct. 2002)

9-706. Allowing name or license to be used fraudulently. No person or corporation engaged in doing work in any of the above mention trades, shall allow his name to be used by any other person, firm, or corporation, directly or indirectly, to obtain a permit, or for the construction of any work under his name or license nor shall he make any misrepresentations or omissions in his dealings with the City of Athens. (as renumbered by Ord. #904, Oct. 2002)

9-707. Permit required. Each trade shall be responsible to purchase the proper permits for each job of record, and they are responsible for the proper inspections to be made at each phase of the construction process, and to see that proper entrance to the premises is provided to the appropriate inspector. No work shall be covered or made inaccessible until the proper inspection has been made. (as renumbered by Ord. #904, Oct. 2002)

CHAPTER 8

PRIVATE SECURITY AND FIRE ALARM BUSINESSES AND USERS

SECTION

- 9-801. Declaration of purpose.
- 9-802. Definitions.
- 9-803. Administrative rules.
- 9-804. Automatic dialing device.
- 9-805. Testing.
- 9-806. Notification.
- 9-807. Penalties.
- 9-808. Liability of city.

9-801. Declaration of purpose. This chapter is enacted to provide minimum standards and regulations applicable to private fire and security alarm users and businesses. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by police with minimization of police time spent on alarms which are false or otherwise not the intended function of private security systems. (1972 Code, § 5-901, as replaced by Ord. #837, § 1, Nov. 1997)

9-802. Definitions. Within this chapter, the following terms, phrases, and words and their derivations have the meaning given herein.

(1) The term "alarm business" means any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling or servicing alarm system(s).

(2) The term "alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which emergency personnel are expected to respond. In this chapter, the term "alarm system" shall include the terms "automatic robbery alarm systems," "burglar systems," "fire alarm systems," and "personal alarm systems," as those terms are hereinafter defined. Excluded from this definition and from the coverage of this chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located, of an attempted unauthorized intrusion or robbery attempt. If such a system, however, employees an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of alarm system and shall be subject to this chapter.

(3) The term "annunciator" means the instrumentation on an alarm console at the receiving terminal of a signal line which through both visual and

audible signals shows when an alarm device at a particular location has been activated or it may also indicate line trouble.

(4) The term "answering service" refers to a telephone answering, service providing among its services the service of receiving on a continuous basis through trained employees, emergency signals from alarm systems and thereafter immediately relaying the message by live voice to the communication center.

(5) The term "automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines, by direct connections or otherwise, a pre-recorded voice message or code signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(6) The term "automatic robbery alarm system" means an alarm system in which signal transmission is initiated by the action of the robber. (Robbery is the intentional or knowing theft of property from the person of another by violence or putting the person in fear.)

(7) The term "burglar alarm system" refers to an alarm system signaling an entry or attempted entry into the area protected by the system.

(8) The term "direct connect" means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the local government, for example, a communication center.

(9) The term "false alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined causes. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes, or other violent conditions.

(10) The term "interconnect" means to connect an alarm system to a voicegrade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(11) The term "manual robbery alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the victim of a robbery or by an observer of a robbery.

(12) The term "modified central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.

(13) The term "police chief" means the chief of the police department of the city or his designated representative.

(14) The term "primary truckline" means a telephone line leading directly into the communication center that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the police and fire department's jurisdiction, or numbers in sequence therewith.

(15) The term "subscriber" means a person who buys and/or leases, or otherwise obtains an alarm signaling system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device. (1972 Code, § 5-902, as replaced by Ord. #837, § 1, Nov. 1997)

9-803. Administrative rules. The police chief or such officer as the police chief may designate shall promulgate such rules as may be necessary for the implementation of this chapter. Such rules shall require the approval of the city manager and shall be open to inspection by the public. (1972 Code, § 5-903, as replaced by Ord. #837, § 1, Nov. 1997)

9-804. Automatic dialing device. No person shall interconnect any automatic dialing device to an emergency primary truckline telephone number except one designated for the specific purpose of answering automatic dialing devices. After the effective date of this section,¹ no person shall permit such devices to remain interconnected to an emergency primary trunk line, except one designated for the specific purpose of answering automatic dialing devices, from any property owner or controlled by that person.

The director of the communications department may approve the connection of an automatic dialing device to an emergency primary trunk line phone number installed to answer automatic dialing devices. (1972 Code, § 5-904, as replaced by Ord. #837, § 1, Nov. 1997)

9-805. Testing. No alarm system relayed through intermediate services to the communications department will be tested to determine emergency response. (1972 Code, § 5-906, as replaced by Ord. #837, § 1, Nov. 1997)

9-806. Notification. When an alarm business service to its subscribers is disrupted for any reason by the alarm business, or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscribers not to make such notification by telephone during certain hours, the alarm business may comply with such instructions. (1972 Code, § 5-907, as replaced by Ord. #837, § 1, Nov. 1997)

¹This section was taken from Ord. #837 which passed final reading November 18, 1997.

9-807. Penalties. Any person who violates any provision of this chapter shall upon conviction be subject to a civil penalty under the general provision of the municipal code by the City of Athens, together with the costs and costs of prosecution. (1972 Code, § 5-909, as replaced by Ord. #837, § 1, Nov. 1997)

9-808. Liability of city. The city will not be liable for failure to respond to any call whether genuine or false. (1972 Code, § 5-910, as replaced by Ord. #837, § 1, Nov. 1997)

CHAPTER 9

CABLE TELEVISION

SECTION

9-901. To be furnished under franchise.

9-901. To be furnished under franchise. Cable television service shall be furnished to the City of Athens and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Athens and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ordinance #337, Ord. #807 (Sept. 1995), Ord. #809 (Dec. 1995), Ord. #811 (May 1996) and any amendments, in the office of the city manager.

CHAPTER 10

ADULT ORIENTED ESTABLISHMENTS

SECTION

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9-1001. Findings and purpose. (1) The city council of the City of Athens, Tennessee, finds: (a) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, could occur in adult-oriented establishments in the City of Athens; (b) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes; (c) That the unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Athens.

(2) It is the purpose of this chapter to promote and secure the general welfare, health, and safety of the citizens of the City of Athens. (as added by Ord. #843, § 1, April 1998)

9-1002. 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-orient establishment" shall include, but not be limited to, "adult bookstores," "adult motion picture theaters," "adult mini motion picture establishments," or "adult cabaret" and further means any premises to which the public patrons or members 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-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainments are held, conducted, operated or maintained for a profit, direct or indirect. Any "adult-oriented establishment" further includes, without being limited to any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by the emphasis on matter.

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

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

(5) "Adult cabaret" is defined to mean an establishment which features as a principal use of its business, entertainers, and/or waiters and/or bartenders 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, strippers, male or female impersonators, or similar entertainers.

(6) "City Council" means the city council of the City of Athens, Tennessee.

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

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

(9) "Adult entertainment" means any exhibition of any adult-oriented motion pictures, live performance, display 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 area, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means: (a) human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse, or sodomy; (c) fondling or erotic touching of human genitals, public region, buttock, or female breasts.

(12) "Specified anatomical areas" means:

(a) less than completely and opaquely covered;

(i) human genitals, pubic region;

(ii) buttocks;

(iii) female breasts below a point immediately above the top of the areola area; and

(b) human male genitals in a discernibly turgid state, even if completely opaquely covered. (as added by Ord. #843, § 1, April 1998)

9-1003. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter,¹ no adult-oriented establishment shall be operated or maintained in the City of Athens without first obtaining a license to operate issued by the City of Athens.

(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 each.

(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 operations of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter¹ must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third and final reading.¹ If a license is not issued within said one-hundred-twenty-day period, then such existing adult-oriented establishment shall cease operations. (as added by Ord. #843, § 1, April 1998)

9-1004. Application for license. (1) Any person, partnership or corporation desiring to secure a license shall make application to the city

¹These provisions were taken from Ord. # 843, which passed third reading April 21, 1998.

manager. The application shall be filed in triplicate with and dated by the City of Athens. A copy of the application shall be distributed promptly by the city manager to the Athens Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city manager. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant or any other person who is interested directly in the ownership or operation of the business, 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 eye 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 previously operated in this or any other county, city, or state under an adult-oriented establishment license or similar business license; whether the applicant 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 (2) inches by two (2) inches of the applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant.
- (j) The names and addresses of all persons, partnerships, 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 contact 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 the applicant has been a resident of the City of Athens or its environs immediately preceding the date of the application.
- (m) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name

and address of the registered agent and the name and address of all principal shareholders, officers, and directors of the corporation.

(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, another 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's business name, address, phone number, and representative's name.

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

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of the receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence as to why his license should not be denied. The city council shall hear evidence as to the basis of the denial and shall affirm or reject the denial of an application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery County of McMinn County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1005. 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 10-104(2) shall be at least eighteen (18) years of age.

(ii) No officer, director, or stockholder required to be named under 10-104(2) 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 officer, director, or stockholder required to be named under 10-104(2) shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

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

(i) 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 of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(ii) No persons have 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 Athens Police Department has investigated the applicant's qualification to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (as added by Ord. #843, § 1, April 1998)

9-1006. Permit required. In addition to the license requirement previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented

establishment without first obtaining a valid permit issued by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1007. Application for permit. (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Athens Police Department and to the applicant.

(2) The application for a permit shall be upon a form provided by the city manager. An application for a permit shall furnish the following information under oath.

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- (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 years immediately preceding the date of the application.
 - (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name or where 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 or nolo contendere on all charges, except minor traffic violations.
 - (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
 - (i) The length of time the applicant has been a resident of the City of Athens or its environs immediately preceding the date of the application.
 - (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Athens Police Department, the city manager shall notify the applicant that his application is granted, denied, or held for further

investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigations, the city manager shall advise the applicant in writing within ten (10) days whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence bearing upon the question. If the city council denies a license application, the city attorney shall within ten (10) days after the denial institute a suit for declaratory judgment in state court for review of the denial.

(5) Failure or refusal of the applicant to give 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 investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #843, § 1, April 1998)

9-1008. Standards for issuance of permit. (1) To receive a permit as an employee, an applicant must met 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 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.

(2) No permit shall be issued until the Athens Police Department has investigated the applicant's qualifications to receive a permit. The result of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application.

(3) Whenever an application for a permit as an employee is denied, the applicant may within ten (10) day of receipt of notification of denial request a hearing before the city council, at which the applicant may present evidence bearing upon the question. This hearing shall be held by the city council at the next regularly scheduled meeting of the city council which occurs more than five (5) days after the request for a hearing has been filed. If the city council denies the applicant a permit as an employee, the city attorney shall within ten (10) days after the denial institute suit for declaratory judgment in state court for review of the denial. (as added by Ord. #843, § 1, April 1998)

9-1009. Fees. (1) A license fee of five hundred dollars (\$500) shall be submitted with the application for a license. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned. (as added by Ord. #843, § 1, April 1998)

9-1010. 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 upon his or her person and shall be displayed upon request of a customer, any member of the Athens Police Department, or any person designated by the city council. (as added by Ord. #843, § 1, April 1998)

9-1011. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Athens Police Department and to the operator. The application for renewal shall be upon a form provided by the city manager and shall contain such information and date, given under oath or affirmation, as may be required by the city council.

(2) A license renewal fee of five hundred dollars (\$500) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for a renewal less than (60) days before the license expires. If the applicant is denied, one-half ($\frac{1}{2}$) of the total fees collected shall be returned.

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

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the city manager. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Athens Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and

shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(5) A permit renewal fee of one hundred dollars (\$100) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

(6) If the Athens Police Department is aware of any information bearing on the employee's qualification, that information shall be filed in writing with the city manager. (as added by Ord. #843, § 1, April 1998)

9-1012. Revocation of license or permit. (1) The city manager shall revoke a license or permit for any of the following reasons:

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

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

(c) The operator or employee become 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 contract 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 materials are displayed or sold.

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

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

(2) The city manager, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days written notice of the charges against him or her and the opportunity for a public hearing before the city council, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. Whenever a license or permit is revoked by the city manager, the party holding the license or permit may within ten days of the notice of revocation request a hearing before the city council, at which time the party holding the license or permit may present evidence bearing upon the question. This hearing shall be held by the city council at the next regularly scheduled meeting of the city council that occurs more than five (5) days after the request for a hearing is filed. If the city council sustains the revocation, the party holding the license or permit may within ten (10) days thereafter institute suit in state court.

(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.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #843, § 1, April 1998)

9-1013. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays or between the hours of 1:00 A.M. and 12:00 midnight on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Athens Police Department or such other persons as the city council may designate. (as added by Ord. #843, § 1, April 1998)

9-1014. Responsibilities of the operator. (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information of 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 employee available immediately for inspection by police upon demand of a member of the Athens 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 while on the licensed premises and any act or omission of any employee 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 pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Athens 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-oriented 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 Athens Municipal Code, Title 9, Chapter 10, Sections 9-1001 through 9-1017. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;

3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #843, § 1, April 1998)

9-1015. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit it to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse of oral or anal copulation or other contact stimulation of the genitals.

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

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

(4) No entertainer, employee, or customer shall be permitted to have any physical contact with any other 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 at least six feet (6') from the nearest entertainer, employee, and/or customer. (as added by Ord. #843, § 1, April 1998)

9-1016. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding five hundred dollars (\$500) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #843, § 1, April 1998)

9-1017. Severability clause. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the chapter. (as added by Ord. #843, § 1, April 1998)