

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
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8. ADULT ORIENTED ESTABLISHMENTS.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 9-101. "Going out of business" sales.
9-102. Tattooing prohibited.

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. (1982 Code, § 5-101)

9-102. Tattooing prohibited. No business license shall be issued for any commercial concern in the Town of Bruceton engaging in the practice of tattooing. Furthermore, it shall be unlawful to engage in the practice of tattooing within the confines of the Town of Bruceton. (Ord. #90-46, Aug. 1990)

¹Municipal code references

Liquor and beer regulations: title 8.

Noise reductions: title 11.

CHAPTER 2**PEDDLERS, ETC.**¹**SECTION**

- 9-201. Permit required.
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9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1982 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations. (1982 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the town recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code references
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1982 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the town recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the town recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The town recorder shall keep a permanent record of all permits issued. (1982 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the town recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or 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. (1982 Code, § 5-205)

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given. The surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1982 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1982 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1982 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1982 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1982 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the town recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1982 Code, § 5-211)

9-212. Reapplication No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1982 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1982 Code, § 5-213)

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.
- 9-305. Soliciting in the streets or at a roadblock.

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 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. (1982 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder 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. (1982 Code, § 5-302)

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. (1982 Code, § 5-303).

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. (1982 Code, § 5-304)

9-305. Soliciting in the streets or at a roadblock. No peddling or solicitation of funds shall be conducted in vehicular traffic lanes on the streets or roads of the town nor shall any person operate a fund raising "roadblock" of any kind.

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance or bond required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1982 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the governing body; and make a

¹Municipal code reference
Privilege taxes: title 5.

recommendation to either grant or refuse a franchise to the applicant. The governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1982 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1982 Code, § 5-403)

9-404. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1982 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1982 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1982 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1982 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1982 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1982 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1982 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1982 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1982 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1982 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1982 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1982 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1982 Code, § 5-416)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1982 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1982 Code, § 5-502)

9-503. 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 parents of such minor, if living. If the parents are dead, then written consent must be obtained from the 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 must be obtained. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1982 Code, § 5-503)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television service shall be furnished to the Town of Bruceton and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Bruceton 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 Ord. #96-01 dated May 21, 1996 in the office of the town recorder.

CHAPTER 7

ADULT ORIENTED ESTABLISHMENT/MASSAGE REGISTRATION

SECTION

- 9-701. Short title.
- 9-702. Definitions.
- 9-703. Adult oriented establishment/massage registration board.
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- 9-705. License to operate--application.
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- 9-709. Revocation, suspension or annulment of licenses.
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- 9-712. Hours open for inspection.
- 9-713. Duties and responsibilities of operators, entertainers and employees.
- 9-714. Prohibited activities.
- 9-715. Entertainers or escorts--permits required.
- 9-716. Entertainers or escorts--permits--application.
- 9-717. Entertainers or escorts--qualifications; investigations.
- 9-718. Entertainers or escorts--permits, fees.
- 9-719. Penalties.
- 9-720. Part not exclusive or preemptory of local laws or regulations.

9-701. Short title. This part shall be known and cited as the "Adult-Oriented Establishment/Massage Registration Ordinance of 1999." (Ord. #99-04, Nov. 1999)

9-702. Definitions. As used in this part, unless the context otherwise requires:

(1) "Adult bookstore" means a business which offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults;

(2) "Adult cabaret" means 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 such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits,

lingerie, or latex covering. "Adult cabaret" includes a commercial establishment which features entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers;

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers;

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

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

(6) "Adult-oriented establishment" includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, or lingerie modeling and further "adult-oriented establishment" 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 entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult-oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import;

(7) "Board" means the adult-oriented establishment board, or, if there is in existence in the town a massage registration board appointed by the mayor, such board may be substituted for the board;

(8) "Town," as used in this part, means the Town of Bruceton;

(9) "Employee" means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not such person is

paid a salary, wage, or other compensation by the operator of such business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises;

(10) "Entertainer" means any person who provides entertainment within 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, escort or an independent contractor.

(11) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

(a) "Service-oriented escort" is an escort which:

(i) Operates from an open office;

(ii) Does not employ or use an escort runner;

(iii) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and

(iv) Does not offer or provide sexual conduct.

(b) "Sexually-oriented escort" is an escort which:

(i) Employs as an employee, agent, or independent contractor an escort bureau runner;

(ii) Works for, as an agent, or independent contractor, or is referred to a patron by a sexually-oriented escort bureau;

(iii) Advertises that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises;

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau;

(v) Works as an escort without having a current valid permit issued under this part, in such person's possession at all times while working as an escort; or

(vi) Accepts a fee from a patron who has not first been delivered a contract.

(12) "Escort service" means a "person" as defined in this section, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts;

(a) "Service-oriented escort bureau" is an escort bureau which:

(i) Maintains an open office at an established place of business;

- (ii) Employs or provides only escorts which possess valid permits issued under this part;
 - (iii) Does not use an escort bureau runner; and
 - (iv) Does not advertise that sexual conduct will be provided to a patron.
- (b) "Sexually-oriented escort bureau" is an escort bureau which:
- (i) Does not maintain an open office;
 - (ii) Employs as an employee, agent, or independent contractor, uses an escort bureau runner;
 - (iii) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron;
 - (iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;
 - (v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this part;
 - (vi) Does not deliver contracts to every patron or customer; or
 - (vii) Employs, contracts with a sexually-oriented escort or refers or provides to a patron, a sexually-oriented escort.

(13) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one (1) or more of the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;

(14) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;

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

(16) "Person" means an individual, partnership, limited partnership, firm, corporation or association;

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

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

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

(19) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual

organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person;

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

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

(b) Physical contact between male and female persons and/or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;

(21) "Sexual gratification" means "sexual conduct" as defined in this part;

(22) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this part;

(23) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

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

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

(24) "Specified criminal acts" means the following criminal offenses as defined by Tennessee Code Annotated:

(a) Aggravated rape;

(b) Rape;

(c) Rape of a child;

(d) Aggravated sexual battery;

(e) Sexual battery by an authority figure;

(f) Sexual battery;

(g) Statutory rape;

(h) Public indecency;

(i) Prostitution;

(j) Promoting prostitution;

(k) Distribution of obscene materials;

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

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

(n) Sexual exploitation of a minor;

(o) Aggravated sexual exploitation of a minor; and

- (p) Especially aggravated sexual exploitation of a minor;
 - (25) "Specified sexual activities" means:
 - (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;
- or
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts; and

(26) "Specified services" means massage services, private dances, private modeling, acting as an "escort" as defined in this part, and any other live "adult entertainment" as defined in this part. (Ord. #99-04, Nov. 1999)

9-703. Adult-oriented establishment/massage registration board.

(1) There is created an adult-oriented establishment/massage registration board.

(2) The board shall consist of five (5) members appointed by the mayor.

(3) The terms of the board members shall be coextensive with the terms of the massage registration board with no member serving after the expiration of the member's term or removal from the massage registration board. The terms of the board members shall be for four (4) years.

(4) A majority of the members to which the board is entitled shall constitute a quorum.

(5) The board shall serve without compensation but the members shall receive their actual expenses for attending adult-oriented establishment board meetings.

(6) The board shall select a chair from among its members and the chair shall notify interested persons and members of board meetings.

(7) The board shall meet as often as required to carry out the provisions of this part. (Ord. #99-04, Nov. 1999)

9-704. License to operate required. (1) Except as provided in subsection (5), from and after December 14, 1999, of this part, no adult-oriented establishment shall be operated or maintained without first obtaining a license to operate issued by the town adult-oriented establishment/massage registration board.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment.

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

(4) It is unlawful for any entertainer, employee, escort or operator to knowingly work in or about or to knowingly perform any service directly related

to or at the request of the operation of any unlicensed adult-oriented establishment or escort service.

(5) All existing adult-oriented establishments at the time of the passage of this part must submit an application for a license within one hundred twenty (120) days of December 14, 1999. If a license is not issued within such one hundred twenty-day period, then such existing adult-oriented establishment shall cease to operate.

(6) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the applicable zoning requirements in the town. Any zoning requirement shall be in addition to and not an alternative to any requirement of this legislation. (Ord. #99-04, Nov. 1999)

9-705. License to operate--application. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the adult-oriented establishment board. A copy of the application shall be distributed promptly to the town police and shall be accompanied by a non-refundable fee of \$1,000.00 for a license.

(2) The application for a license shall be upon a form provided by the board. An applicant for a license shall furnish the following information under oath:

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) The business, occupation or employment of the applicant in an adult-oriented establishment for five (5) years immediately preceding the date of the application;
- (d) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;
- (e) Any conviction for or plea of nolo contendere to a specified criminal act as defined in Tennessee Code Annotated, § 7-51-1102(24);
- (f) The address of the adult-oriented establishment to be operated by the applicant;
- (g) If the applicant is a corporation, the application shall specify the name, address, and telephone number of the corporation, the date and the state of incorporation, the name and address of the registered agent for service of process of the corporation, and the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and

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

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

(i) Within ten (10) days of receiving the results of the investigation conducted by the board and/or the police or sheriff's department, the board shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(j) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof by the board. (Ord. #99-04, Nov. 1999)

9-706. License to operate—qualifications. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(1) If the applicant is an individual:

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

(b) The applicant shall not have had a license revoked within five (5) years immediately preceding the date of the application;

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

(d) The applicant shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102, for which:

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

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

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

- (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
- (2) If the applicant is a corporation:
 - (a) All officers, directors and stockholders required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall be at least eighteen (18) years of age;
 - (b) No officer, director and stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall have had an adult-oriented establishment license revoked within five (5) years immediately preceding the date of the application;
 - (c) No officer, director or stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;
 - (d) The applicant or officer, director or stockholder required to be named under Tennessee Code Annotated, § 7-51-1105(b) shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102 for which:
 - (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
 - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
 - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;
 - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
- (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
 - (a) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
 - (b) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had a license revoked within five (5) years immediately preceding the date of the application;
 - (c) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application; and
 - (d) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified

criminal act," as defined in Tennessee Code Annotated, § 7-51-1102 for which:

- (i) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense;
 - (ii) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense;
 - (iii) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve-month period;
 - (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
- (4) No license shall be issued unless the board or police department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the board no later than twenty (20) days after the date of the application.
- (5) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in this section has elapsed. (Ord. #99-04, Nov. 1999)

9-707. Inspections; notice of results. (1) In order to effectuate the provisions of this part, the board, its authorized representative or director of safety is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocations, suspension or refusal to issue licenses provided by this part.

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

(3) If an additional investigation is held, upon the expiration of the thirtieth day, the applicant shall be permitted to begin operating the business for which the license is sought, unless or until the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial. (Ord. #99-04, Nov. 1999)

9-708. Injunctions; contempt. (1) The board has the power and authority to enter into any court of the state of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this part, and further empowered to enter into any such court to enforce the provisions of this part in order to ensure compliance with such provisions.

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

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

(4) The circuit, chancery, or criminal courts of this state and the chancellors and judges thereof shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the board within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions; and any other writs and processes appropriate to carry out and enforce this part. (Ord. #99-04, Nov. 1999)

9-709. Revocation, suspension or annulment of licenses. (1) The board shall revoke, suspend or annul a license for any of the following reasons:

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

(b) The operator or entertainer, or any employee of the operator, violates any provision of this part or any rule or regulation adopted by the board pursuant to this part; provided, 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 license suspension of thirty (30) days if the board 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 becomes ineligible to obtain a license;

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

(e) Any intoxicating liquor, wine or malt beverage is served or consumed on the premises of the adult-oriented establishment;

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

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

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

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

(j) Any operator employee or entertainer is convicted of a "specified criminal act," as defined in § 9-702 provided that such violation occurred on the licensed premises.

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

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

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

(3) If the board affirms the suspension or revocation, the licensee may institute suit for declaratory judgment in the Chancery Court for Carroll County within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation.

(5) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing. (Ord. #99-04, Nov. 1999)

9-710. Hearings on disciplinary actions, etc. (1) As used in this section, "application" means:

- (a) An application for a license;
- (b) An application for a permit;
- (c) An application for a license renewal; and
- (d) An application for a permit renewal.

(2) Whenever an application is denied, the chair shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the mayor within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the mayor's receipt of such request before the board, at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of such hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board.

(3) If the board affirms the denial of an application, the applicant shall institute suit for declaratory judgment in the Chancery Court for Carroll County, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

(4) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing. (Ord. #99-04, Nov. 1999)

9-711. Termination and renewal of licenses; applications; fees.

(1) Every license issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the board. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the chair of the board to the director of public safety. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the board, but not less than the information contained in the original application.

(2) A license renewal fee of five hundred dollars (\$500) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. If the application is denied, one half (½) of the fee shall be returned.

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

(4) Every permit issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before an entertainer is allowed to provide entertainment in an adult-oriented establishment in the following calendar year. Any entertainer desiring to renew a permit shall make application to the board. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the board to the police chief. The application for renewal shall be upon a form provided by the board and shall contain such information and data, given under oath or affirmation, as may be required by the board.

(5) A permit renewal fee of twenty-five dollars (\$25.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of five dollars (\$5.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the application is denied, one half (½) of the fee shall be returned.

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

(7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this part for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the board as set forth in Tennessee Code Annotated, § 7-51-1110. (Ord. #99-04, Nov. 1999)

9-712. Hours open for inspection. The public portion of all adult-oriented establishments shall be open to inspection at all reasonable times by the applicable police department or such other persons as the board may designate. (Ord. #99-04, Nov. 1999)

9-713. Duties and responsibilities of operators, entertainers and employees. (1) The operator shall maintain a register of all employees, showing the name, the aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone number, social

security number, driver license number, date of employment and termination, and duties of each employee, and such other information as may be required by the board. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by the board and/or police department upon demand of a member of the board or police department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this part shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for 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 part 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) No operator or entertainer or any employees of the operator shall consume while on the premises of the adult-oriented establishment or serve or allow to be served or consumed by any such person or patron any intoxicating liquor, wine, malt beverage or a controlled substance as defined by Tennessee Code Annotated.

(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 herein defined.

(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.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) The license shall be conspicuously displayed in the common area of the premises at all times.

(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 Tennessee Code Annotated, Title 7, Chapter 51, Sections 1101 through 1120 and Bruceton Municipal Code Title 9, Chapter 7, §§ 9-701 through 9-720. 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;
- (4) Not permitted to appear in a state of full nudity."

(11) The permit shall be kept by an employee, entertainer, or escort so that it is readily available for display immediately upon request of a customer, any member of such town police department, any board member, or any person designated by the board. (Ord. #99-04, Nov. 1999)

9-714. Prohibited activities. (1) No operator, entertainer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow, patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(3) 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.

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

- (i) Engage in sexual intercourse;
- (ii) Engage in deviant sexual conduct;
- (iii) Appear in a state of nudity;
- (iv) Fondle such person's own genitals or those of another.

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

(5) If the license holder operates an escort bureau, such bureau shall not be operated as a "sexually-oriented escort bureau" as defined in this part.

(6) No permit holder of an escort bureau shall conduct oneself as a "sexually-oriented escort" as defined in this part.

(7) No license holder shall advertise that such license holder offers "sexual stimulation" or "sexual gratification" as defined in this part. (Ord. #99-04, Nov. 1999)

9-715. Entertainers or escorts--permits required. No person shall be an entertainer, employee, or escort in an adult-oriented establishment without a valid permit issued by the board. (Ord. #99-04, Nov. 1999)

9-716. ~~Entertainers or escorts--permits--application.~~ (1) Any person desiring to secure a permit shall make application to the board. The application shall be filed in triplicate with and dated by the board. A copy of the application shall be distributed promptly by the board to the police department.

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

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) The applicant's height, weight, color of eyes and hair;
- (d) The adult-oriented establishment or similar business permit history of the applicant; whether such person, in previously operating in this or any other city or state under permit, has had such permit revoked or suspended, the reason therefor, and the business activity or occupation subject to such action of suspension or revocation;
- (e) Any conviction for a plea of nolo contendere to "a specified criminal act" as defined in Tennessee Code Annotated, § 7-51-1102(24);
- (f) Two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant; and
- (g) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board or police department, the board shall notify the applicant that the applicant's application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the board shall advise the applicant in writing whether the application is granted or denied.

(4) If an additional investigation is held, upon the expiration of the thirtieth day, the applicant shall be permitted to begin operating the business for which the license is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application, or the applicant's refusal to submit to or cooperate with any investigation required by this part, constitutes an admission by the applicant that the applicant is ineligible for such permit, and is grounds for denial thereof by the board. (Ord. #99-04, Nov. 1999)

9-717. Entertainers or escorts; qualifications; investigations.

(1) To receive a permit as an entertainer or escort, an applicant must meet the following standards:

- (a) The applicant shall be at least eighteen (18) years of age;
- (b) The applicant shall not have had a permit revoked within two (2) years immediately preceding the date of the application;
- (c) The applicant shall not have been convicted of a "specified criminal act," as defined in Tennessee Code Annotated, § 7-51-1102 for which:

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

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

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

- (iv) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

- (d) An applicant who has been convicted of any specified criminal activities may not be denied a permit based on those convictions once the time period required in subdivision (1)(c) has elapsed.

(2) No permit shall be issued until the board or police department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the board no later than thirty (30) days after the date of the application. (Ord. #99-04, Nov. 1999)

9-718. Entertainers or escorts—permits, fees. (1) A license fee of a non-refundable one thousand dollars (\$1,000) shall be submitted with the application for a license.

(2) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit. (Ord. #99-04, Nov. 1999)

9-719. Penalties. (1) Any person, partnership or corporation found to have violated this part shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any license.

(2) Each violation of this part 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.

(3) At the boards discretion, and in the event of a violation by an employee or entertainer not attributed to the license, the board may assess a civil penalty or forfeiture in lieu of license forfeiture in an amount not to exceed one thousand five hundred dollars (\$1,500) per violation as determined by (2). (Ord. #99-04, Nov. 1999)

9-720. Part not exclusive or preemptory of local laws or regulations. Nothing in this part shall pre-empt or prevent the town from enacting and enforcing other lawful and reasonable restrictions, regulations, licensing, zoning, and other criminal, civil or administrative provisions concerning the location, configuration, code compliance, or other business operations or requirements of adult-oriented establishments and sexually-oriented businesses. (Ord. #99-04, Nov. 1999)

CHAPTER 8

ADULT ORIENTED ESTABLISHMENTS

SECTION

9-801. Definitions.

9-802. Hours of operation.

9-803. Physical design of premises.

9-804. Penalty.

9-801. Definitions. As used in this part, unless the context otherwise requires:

(1) "Adult" means a person who has attained eighteen (18) years of age;

(2) "Adult cabaret" means a cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers;

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities, including removal of articles of clothing or appearing unclothed;

(4) "Adult-oriented establishment" means any commercial establishment, business or service, or portion thereof, which offers, as its principal or predominant stock or trade, sexually-oriented material, devices, or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. "Adult-oriented establishment" includes, but is not limited to:

(a) "Adult book stores," which means any corporation, partnership or business of any kind which has as its principal or predominant stock or trade, books, magazines or other periodicals and which offers, sells, provides or rents for a fee:

(i) Any sexually-oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or

(ii) Any sexually-oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

(iii) Any sexually-oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age;

(b) "Adult motion picture theaters," which means an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and

(c) "Adult shows" or "adult peep shows," which includes all adult shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities;

(5) "Bestiality" means sexual activity, actual or simulated, between a human being and an animal;

(6) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death;

(7) "Person" means an individual, partnership, limited partnership, firm, corporation or association;

(8) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture or death upon another person or animal;

(9) "Specified sexual activities" means activities, services or performances that include the following sexual activities and/or the exhibition of the following anatomical areas:

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

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts; and

(10) "Sexually-oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered. (Ord. #99-04, Nov. 1999)

9-802. Hours of operation. No adult-oriented establishment pursuant to 10-3-201 et seq. or this part shall open to do business before eight o'clock P.M. (8:00 P.M.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101. (Ord. #99-04, Nov. 1999)

9-803. Physical design of premises. No person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult-oriented establishment and which contains:

(1) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; or

(2) Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures or other offered entertainment. (Ord. #99-04, Nov. 1999)

9-804. Penalty. A first offense for a violation of this part is a Class B misdemeanor, punishable only by a fine of five hundred dollars (\$500); and a second or subsequent such offense is a Class A misdemeanor which shall be prosecuted in the General Sessions Court of Carroll County. (Ord. #99-04, Nov. 1999)