

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. POOL ROOMS.
3. ADULT-ORIENTED ESTABLISHMENTS.
4. CABLE TELEVISION.
5. MOBILE FOOD VENDING.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violations and penalty.

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

- (1) "Peddler," means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and

¹Municipal code references

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

Cable television: title 20, chapter 1.

Liquor and beer regulations: title 8

Noise reductions: title 11, chapter 4.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 6.

Trespass by peddlers, etc.: § 10-801.

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 to magazines or other materials protected by provisions of the Constitution of the United States.

(3) "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.

(4) "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.

(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.

¹State law references

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

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

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. (1991 Code, § 9-101, modified)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys delivering newspaper subscriptions, 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, nor to religious, charitable and civic organizations of Anderson County, Tennessee that solicit no more than four (4) times per year, or vendors at Anderson County Chamber sponsored festivals approved by the city manager. (1991 Code, § 9-102, modified)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable 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. (1991 Code, § 9-103, modified)

9-104. Permit procedure. (1) Application form. A sworn application shall be completed and filed with the city recorder by each applicant for a permit, providing the following information:

(a) Applicants for a permit as a peddler, transient vendor, solicitor or street barker, and as a solicitor for subscriptions, shall provide the following information:

(i) Complete name of applicant, date of birth, social security or other identification number, and physical description.

(ii) Applicant's permanent home address and telephone number.

(iii) Applicant's current address and telephone number.

(iv) Applicant's current business address and telephone number.

(v) A copy of the applicant's current photo identification (driver's license or other acceptable photo identification).

(vi) A list of all persons, including the name, date of birth, social security or other identification number, and driver's license or other acceptable photo identification of all persons who will make sales or solicitations in conjunction with the permit.

(vii) A list of all vehicles, vehicle description, vehicle license and registration information of all vehicles (whether or not the vehicle is owned individually by the person making the sales or solicitations, by the business or organization itself, or rented or

borrowed) that will be used in conjunction with the sales or solicitations in conjunction with this permit.

(viii) A brief description of the type of business and the goods to be sold.

(ix) A statement as to whether or not the applicant (and all persons associated with the permit) has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(x) A list of the last three (3) cities, towns or other political subdivisions (if that many) where the applicant has engaged in business or conduct similar to that proposed in this application, immediately preceding the date of this application.

(b) Applicant's for a permit as a solicitor for charitable purposes shall provide the following information:

(i) Applicant's (organization's) name, permanent address, and telephone number.

(ii) Applicant's (organization's) contact person and telephone number.

(iii) Reason/purpose for the solicitation.

(c) The date(s) for which the applicant intends to do business or make solicitations.

(d) The location(s) in which the applicant proposes to do business or make solicitations.

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, or solicitor shall submit with his application a nonrefundable fee of one hundred dollars (\$100.00). Each applicant for a permit as a street barker or solicitor for subscriptions shall submit a nonrefundable fee of fifty dollars (\$50.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Issuance or refusal of permit. (a) The city recorder shall refer each application for permit to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

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

(c) If as a result of such investigation the chief reports the applicant's moral reputation and business responsibility are satisfactory, the city recorder shall issue the permit, and provide a copy of the permit to the applicant and the chief of police. (1991 Code, § 9-104, modified)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, 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. (1991 Code, § 9-105)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1991 Code, § 9-106)

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1991 Code, § 9-107)

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

- (a) Fraud, misrepresentation, or incorrect statement contained or omitted in the application for permit, or made in the course of carrying out the business as defined in the permit application.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.

(d) Conducting the business as defined in the permit application in an unlawful manner or in such 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) Appeal of suspension or revocation. Any applicant whose permit has been issued in accordance with the requirements under this chapter which has been suspended or revoked by the city recorder may appeal such suspension or revocation to the city council. Upon such appeal and after notice thereof, city council shall schedule a hearing to hear testimony on behalf of the permit holder and the city in regard to said suspension or revocation. Notice of the hearing shall include the grounds for which the permit application, at least five (5) business days prior to the date set for the hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) business days prior to the date set for the hearing.

(3) Action of city council. The city council, at the hearing as defined in § 9-108(2) shall have the authority to uphold the actions of the city recorder, or reinstate the suspended or revoked permit as deemed appropriate by a majority vote of council. Such action of city council shall be final. (1991 Code, § 9-108)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for three (3) months. The permit of street barkers shall be issued for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for subscriptions shall expire thirty (30) days after issuance. The permit for solicitors for charitable purposes shall expire at the conclusion of the event/occasion for which the permit is issued. (1991 Code, § 9-109, modified)

9-110. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1991 Code, § 9-110)

CHAPTER 2

POOL ROOMS¹

SECTION

9-201. Prohibited in residential areas.

9-202. Hours of operation regulated.

9-203. Minors to be kept out; exception.

9-204. Gambling, etc., not to be allowed.

9-201. 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. (1991 Code, § 9-301)

9-202. 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 except as follows: Monday through Thursday 9:00 A.M. through 11:00 P.M. Friday and Saturday 9:00 A.M. through 12:00 midnight; Sunday 1:00 P.M. through 6:00 P.M. (1991 Code, § 9-302)

9-203. 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 residence. (1991 Code, § 9-303)

9-204. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (1991 Code, § 9-304)

¹Municipal code reference
Privilege tax provisions, etc.: title 5.

CHAPTER 3

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-301. Definitions.
- 9-302. License required.
- 9-303. Application for license.
- 9-304. Standards for issuance of license.
- 9-305. Permit required.
- 9-306. Application for permit.
- 9-307. Standards for issuance of permit.
- 9-308. Fees.
- 9-309. Display of license or permit.
- 9-310. Renewal of license or permit.
- 9-311. Revocation of license or permit.
- 9-312. Hours of operation.
- 9-313. Responsibilities of the operator.
- 9-314. Prohibitions and unlawful sexual acts.
- 9-315. Penalties and prosecution.
- 9-316. Location of adult-oriented establishments restricted.
- 9-317. Invalidity of part.

9-301. 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-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs, films and other electronic media which are

distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

(4) "Adult entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

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

(7) "City council" means the City Council of the City of Clinton, Tennessee.

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

(9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not

a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

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

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

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

(12) "Specified sexual activities" means:

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

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (1991 Code, § 9-501)

9-302. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Clinton without first obtaining a license to operate issued by the City of Clinton.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

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

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

(5) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third and final reading. If a license is not issued within said one hundred twenty (20) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (1991 Code, § 9-502)

9-303. Application for license. (1) Any person, partnership, or corporation desiring to secure a license 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 Clinton 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 percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited company) shall furnish the following information under oath:

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of Clinton, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Clinton Police Department, the city manager shall notify the applicant that his application is conditionally 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. All licenses shall be further held pending consideration of the required special use zoning permit by the city council.

(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 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 any 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 Court of Anderson 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. (1991 Code, § 9-503)

9-304. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-402 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-402 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

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

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Clinton Police Department has investigated the applicant's qualifications 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. (1991 Code, § 9-504)

9-305. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city manager. (1991 Code, § 9-505)

9-306. 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 Clinton Police Department and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.
- (i) The length of time the applicant has been a resident of the City of Clinton, 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 Clinton 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 the conclusion of

such additional investigations, 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 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.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board. (1991 Code, § 9-506)

9-307. Standards for issuance of permit. (1) To receive a permit as an employer or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Clinton Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city manager not later than twenty (20) days after the date of the application. (1991 Code, § 9-507)

9-308. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (1991 Code, § 9-508)

9-309. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any

member of the Clinton Police Department, or any person designated by the city council. (1991 Code, § 9-509)

9-310. 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 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 Clinton Police Department and to the operator. The application for renewal shall be 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 council.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Clinton Police Department is aware of any information bearing on the operator's qualifications, that 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 and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and date by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Clinton 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 (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Clinton Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city manager. (1991 Code, § 9-510)

9-311. 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 becomes ineligible to obtain a license or permit.

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

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

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

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

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

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

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

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The 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.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (1991 Code, § 9-511)

9-312. 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 and between the hours of 1:00 A.M. and 12:00 noon on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Clinton Police Department, the Anderson County Sheriff's Department, or such other persons as the city council may designate. (1991 Code, § 9-512)

9-313. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Clinton Police Department at all reasonable times.

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

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of

determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Clinton Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

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

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Clinton City Code.
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. (1991 Code, § 9-513)

9-314. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (1991 Code, § 9-514)

9-315. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) 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. (1991 Code, § 9-515)

9-316. Location of adult-oriented establishments restricted. (1) It shall be unlawful to establish, operate, or maintain any adult-oriented business establishment, that is, adult bookstore, adult motion picture theater, adult mini motion picture theater, or adult cabaret, within the city, if the proposed location is within one-thousand feet (1,000') of:

- (a) A residentially zoned district;
- (b) Any area of amusement which caters to family entertainment;
- (c) Any area which is devoted in part or exclusively to recreational activity;
- (d) Any school, park, church, mortuary, or hospital;
- (e) Any adult-oriented business establishment as defined by this section; or
- (f) Any other regulated uses, including but not limited to establishments authorized to sell any alcoholic beverages for on or off premises consumption. Any location selling beverages that contain less than five percent (5%) alcohol are not to be considered with regard to the required spacing. (1991 Code, § 9-516)

9-317. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared

unconstitutional, and shall not affect any other section, clause or provision of this chapter. (1991 Code, § 9-517)

CHAPTER 4**CABLE TELEVISION****SECTION**

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the City of Clinton and its inhabitants under franchise granted to by the City Council of the City of Clinton, Tennessee. The rights, powers, duties and obligations of the City of Clinton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (1991 Code, § 20-101)

¹The complete details relating to the cable television franchise agreement (and any amendments thereto) are available in the office of the city recorder.

CHAPTER 5

MOBILE FOOD VENDING

SECTION

- 9-501. Purpose.
- 9-502. Definitions.
- 9-503. Permit fee.
- 9-504. Mobile food preparation vehicles.
- 9-505. Operational requirements.
- 9-506. Health department requirements.

9-501. Purpose. To recognize the unique physical and operational characteristics of mobile food vending and establish standards for the typical range of activities and mitigate or prohibit practices that are contrary to the health, safety, and welfare of the public.

9-502. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Mobile food preparation vehicle." A mobile food preparation vehicle is any motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed or stored and used to sell and dispense food to the ultimate consumer. Mobile units must be mobile at all times during operation. The unit must be on wheels at all times. Any mobile food unit that removes such wheels or becomes stationary must meet Tennessee Department of Health Regulations 1200-23-1, et seq. in their entirety. This definition does not include vehicles from which only ice cream and other frozen non-hazardous food products are sold, or vehicles operating under a special event permit.

(2) "Private property." Property with a legal designation of the ownership of property by non-governmental legal entities. Private property is distinguishable from public property, which is owned and maintained by a state entity, including a municipality.

(3) "Public property." Any real property owned, leased, operated, maintained, or controlled by the city other than a street, alley, parkway, sidewalk, or other area dedicated, identified or used as a public right-of-way.

(4) "Public right-of-way." Any public street, road, avenue, highway, named or unnamed alley, lane court, place, trail, parkway, sidewalk, or other public way, operated and/or controlled by the city or other public entity, or subject to an easement owned by or dedicated or granted to the city.

(5) "Event." Any event held by an organization other than the city that has been sanctioned by the city and approved in advance by the city manager.

9-503. Permit fee. Owners of mobile food preparation vehicles shall pay an annual permit fee of twenty-five dollars (\$25.00) per mobile food unit vehicle.

9-504. Mobile food preparation vehicles. Mobile food preparation vehicles shall meet all applicable requirements of this chapter in addition to the requirements outlined as follows:

(1) No person shall engage in the business of a mobile food preparation vehicle within the municipal limits without first having a valid applicable business license for the company's base operation.

(2) A mobile food preparation vehicle license, as authorized by the State of Tennessee and local ordinances, will not be issued to a person unless the following conditions are met:

(a) The vehicle must be specially designed as defined as a mobile food preparation vehicle and be approved by the health department.

(b) No person shall engage in the business of a mobile food preparation vehicle without having a valid commissary license issued by the health department.

(c) Each mobile food preparation vehicle must display its business name and state and local permit numbers, in a prominent and visible location on the vehicle.

(d) The driver of the truck must have a current Tennessee driver's license, current auto insurance (including liability insurance) and a current vehicle registration as required by Tennessee law and enforced by law enforcement authorities.

(e) For private property, the vehicle can only operate in locations where the operation of motorized vehicles are permitted under city ordinances, and areas as specified below:

- (i) B-1 (Central Business District)
- (ii) B-2 (General Business District)
- (iii) B-4 (Interstate Business District)
- (iv) M-1 (Light Industrial District)
- (v) M-2 (Heavy Industrial District)
- (vi) P-1 (Mixed Use Park District)

(f) For public property, the vehicle can only operate in locations where the operation of motorized vehicles are permitted under city ordinances, and areas as specified below:

- (i) JC Park, within designated area
- (ii) Lakefront Park, within designated area
- (iii) South Clinton Park, within designated area
- (iv) Gilliam Street public parking lot, within designated area
- (v) Commerce Street public parking lot, within designated area

(vi) Any other public property is subject to approval by city manager

(g) Setup in a metered parking space or public right-of-way shall be prohibited unless approved in advance by the city manager and subject to street closure by the Clinton Police Department. (modified)

9-505. Operational requirements. (1) When parked on private property with permission of the property owner, a mobile food preparation vehicle may operate at the times and for the duration provided in its permission by the property owner, but shall not exceed seventy-two (72) hours.

(2) When proposed, operation on public property site locations must be approved in advance during the permit process. Public areas may be restricted due to safety concerns and may not be approved when proposed by the applicant. Liability insurance in the amount of one million dollars (\$1,000,000.00) naming City of Clinton as additionally insured is required (a certificate of insurance must be provided with application).

(3) No mobile food preparation vehicle shall be equipped with any external electronic sound-amplifying device.

(4) Cooking shall not be conducted while the vehicle is in motion.

(5) Mobile food preparation vehicle shall be parked only in locations that do not violate this chapter or any other municipal ordinance.

(6) No detached signs are permitted. All signs used must be permanently affixed to, or painted on, the mobile food preparation vehicle and shall extend no more than six inches (6") from the vehicle. No sign shall flash, cause interference with radio, telephone, television or other communication transmissions; produce or reflect motion pictures; be animated; or produce any rotation or motion.

(7) Vendor must provide for the sanitary collection of all refuse, litter and garbage generated by the patrons using that service and remove all such waste materials daily.

(8) City sponsored or co-sponsored events are exempt from the regulations.

9-506. Health department requirements. All mobile food preparation vehicles and food handlers shall meet all applicable standards of the Tennessee Department of Health.