

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. POOL ROOMS.
3. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. "Going out of business" sales.

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to 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. (1984 Code, § 5-101)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

POOL ROOMS¹

SECTION

9-201. Hours of operation regulated.

9-202. Minors to be kept out; exception.

9-203. Gambling etc., not to be allowed.

9-201. 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. (1984 Code, § 5-401)

9-202. 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, or for 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 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; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1984 Code, § 5-402)

9-203. 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. (1984 Code, § 5-403)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 3

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-301. Title.
- 9-302. Definitions.
- 9-303. Prevention of sexual activity.
- 9-304. Involvement of minors.
- 9-305. Specified criminal activity by operators, employees, entertainers and others.
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- 9-307. Duties and responsibilities of operators, entertainers and employees.
- 9-308. Prohibited activities.
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- 9-310. Inspections.
- 9-311. Applicability of state statutes.
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- 9-313. Permit requirement and fees.

9-301. Title. This chapter shall be known and may be cited as "The Sexually Oriented Business Ordinance." (as added by Ord. #12-04-01, May 2012)

9-302. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one (1) of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

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

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

establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as adult bookstore, adult novelty store, or adult video store so long as one (1) of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

(4) "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 exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

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

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

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours.

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

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

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

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

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

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

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

(12) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for the purposes of sexual stimulation or where one (1) or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

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

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

(b) Where in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

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

a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

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

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

(a) A steam bath or dry heat sauna; or

(b) Massage services.

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

(18) "Sexual conduct" means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing the sexual desire of that person or another person.

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

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

(b) For purpose of sexual stimulation, activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

(20) "Sexually oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

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

(22) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

- (iii) Buttocks; and
- (iv) Female breast below a point immediately above the top of the areola; and

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

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

(a) Less than five (5) years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offenses;

(b) Less than ten (10) years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than ten (10) years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed for the last conviction or plea, whichever is the later date, if the convictions or pleas are for two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period; provided further that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this chapter.

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

(25) "Specified sexual activities" means:

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

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

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (as added by Ord. #12-04-01, May 2012)

9-303. Prevention of sexual activity. (1) No person who owns, operates or manages a sexually oriented business shall permit "specified sexual activities," as defined in this chapter, to occur on the premises.

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

(3) No person who owns, operates, causes to be operated or manages a sexually oriented business, other than an adult motel, which exhibits on the premises in any one (1) or more viewing rooms or booths of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," shall cause or allow any deviation from the following requirements:

(a) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. No manager's station may exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one (1) of the manager's stations. Each such areas shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one (1) side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

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

(c) At least one (1) employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) No viewing room or booth may be occupied by more than one (1) person at any time.

(e) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten (10) foot candles at all times.

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

(g) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any non-public areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet (6') and shall be of light colored, nonporous, non-absorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or

booths. No person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

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

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

(j) No occupant of a viewing room or booth shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity, cause any bodily discharge or litter while inside. (as added by Ord. #12-04-01, May 2012)

9-304. Involvement of minors. An operator of a sexually oriented business is in violation of this chapter if:

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

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

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

(4) Any entertainer at the sexually oriented business is less than eighteen (18) years of age. (as added by Ord. #12-04-01, May 2012)

9-305. Specified criminal activity by operators, employees, entertainers and others. (1) No person may own or operate a sexually oriented business within the city if:

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

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

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

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

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

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

(6) The police department shall investigate the criminal record of any person identified pursuant to § 9-309(4) as well as any employee of a sexually oriented business or any entertainer performing in a sexually oriented business. No person shall have an interest as identified in § 9-309(4) unless such person has satisfactorily completed such a criminal background investigation nor shall any person be an employee or entertainer at a sexually oriented business unless such person has submitted to and successfully passed a police background investigation. Each police background investigation shall be subject to a charge of eighty dollars (\$80.00) which shall be paid by the owner/operator of the sexually oriented business or by the employee or performer. The obligation is on the permit holder to advise the city of any new person for whom a background check is required under this section. (as added by Ord. #12-04-01, May 2012)

9-306. Prohibited hours of operation. No sexually oriented business, except for an adult motel, shall be open between the hours of midnight 12:00 A.M. and 8:00 A.M. No adult motel may allow any guest to check into a room between the hours of midnight 12:00 A.M. and 8:00 A.M. (as added by Ord. #12-04-01, May 2012)

9-307. Duties and responsibilities of operators, entertainers and employees. (1) The operator of each sexually oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security numbers, driver license or their state identification number and date of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment and for a period of three (3) years following termination.

(2) The operator shall make such information available for inspection immediately upon request by the city manager or his authorized representative or by the police department or codes department. Alternatively, if the city manager or his authorized representative, the police department or the codes department request that copies of any such information be delivered to them, the operator shall have such copies delivered within three (3) days of the request.

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

(4) There shall be posted and conspicuously displayed in the common areas of each sexually oriented business a list of any and all entertainment and services provided on the premises. Viewing adult-oriented motion pictures shall

be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager or his authorized representative or by the police department or codes department.

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

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

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

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

(a) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three (3) years, showing:

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

(b) Copies of all published advertisements for the business shall be kept for at least three (3) years.

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

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

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

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

(11) The operator or his/her agent shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access to a viewing room or booth where such an opening exists. It shall be the duty of the

operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered. (as added by Ord. #12-04-01, May 2012)

9-308. Prohibited activities. (1) No operator, entertainer, or employee shall be unclothed or in such attire, costume, or clothing or "state of nudity" 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.

(2) No operator, entertainer or employee of a sexually oriented business shall perform or offer to perform any specified sexual activities on the premises of the business, or allow or encourage any person on the premises to perform or participate in any specified sexual activities.

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

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

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

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

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

(8) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours. (as added by Ord. #12-04-01, May 2012)

9-309. Reports. Any person operating or desiring to operate a sexually oriented business shall file a report with the codes department at least thirty (30) days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with and dated by the codes department upon receipt. One (1) copy of the dated report shall be returned to the operator and one (1) copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes

department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

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

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

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

(4) If the operator is an individual, or for any individual who owns or will own at least a ten percent (10%) direct or beneficial interest in the business:

(a) Legal name and any other names or aliases used by the individual.

(b) Mailing address and residential address and telephone number.

(c) Business address and telephone number.

(d) A recent photograph of the individual.

(e) Age, date and place of birth.

(f) Height, weight, and hair and eye color.

(g) Date, issuing state and number of the individual's drivers license or other state identification card information.

(h) Social security number.

(i) Proof that the individual is at least eighteen (18) years of age.

(j) The business, occupation or employment of the individual for five (5) years immediately preceding the date of the report.

(5) If the operator is a partnership:

(a) The partnership's complete name;

(b) The names of all partners and the information required above for all individuals who own or will own at least ten percent (10%) direct beneficial interest in the business.

(c) Whether the partnership is general or limited.

(d) A copy of any printed partnership agreement.

(6) If the operator is a corporation:

(a) The corporation's complete name, address and telephone number;

(b) The date and state of incorporation;

(c) The corporation's federal tax identification number;

(d) Evidence that the corporation is in good standing under the laws of the state of incorporation;

(e) The names and capacity of all officers, directors and principal stockholders and the information required above for all

individuals who own or will own at least a ten percent (10%) direct or beneficial interest in the business.

(f) The name and address of the registered corporate agent for service of process.

(7) The sexually oriented business or similar business history of the operator and of each individual listed under § 9-309(4) above, including:

(a) The name and location of each sexually oriented business or similar business currently or previously owned or operated by such operator or individual.

(b) If the operator or individual is or was a partner, officer, or director or holds or held at least a ten percent (10%) direct or beneficial interest in a partnership, corporation or other business entity which operates or operated or is or was majority owner of any sexually oriented business or similar business, the name and location of each such business and the owning or operating business entity.

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

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

(8) Whether the operator or any of the operator's officers or directors or any individual listed under § 9-309(4) above has a record of any "specified criminal activity" as defined in this chapter, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

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

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements for approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within thirty (30) days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand feet (1,000') of the property of the business filing the report; the boundary lines of any residential zoning district within one thousand feet (1,000') of said property;

and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence within one thousand feet (1,000') of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

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

(13) Any other reasonable available information determined by the city manager, codes department or police department to be necessary in determining whether the operator and the sexually oriented business meet the requirements of this chapter. (as added by Ord. #12-04-01, May 2012)

9-310. Inspections. In order to effectuate the provisions of this chapter, the police department, codes department, city manager and/or his authorized representatives are empowered to:

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

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

(3) Conduct investigation of persons engaged or believed to be engaged in the operation of any sexually oriented business. (as added by Ord. #12-04-01, May 2012)

9-311. Applicability of state statutes. The provisions of this chapter are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto. (as added by Ord. #12-04-01, May 2012)

9-312. Violations. (1) Each of the following acts and omissions shall be considered a civil offense against the city:

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

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

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

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

(2) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually oriented business, of any part of this chapter, or any state statute regarding nudity, sexually oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this chapter, provided that such second or subsequent violation occurs after a judgment or conviction or plea of nolo contendere has been obtained for the previous such violation. (as added by Ord. #12-04-01, May 2012)

9-313. Permit requirements and fees. (1) Any person wishing to operate a sexually oriented business as defined in this section must first obtain a permit from the Town of Huntsville. Such permit shall be provided only upon satisfactory compliance with all of the provisions of this chapter. A permit fee of five hundred dollars (\$500.00) shall be provided along with an application for a permit.

(2) A permit renewal fee of one hundred dollars (\$100.00) is due and payable thirty (30) days after December 31st of each year. If the permit is not renewed by January 30th, following the expiration of the existing permit, a new application shall be submitted for approval along with the five hundred dollar (\$500.00) permit application fee. (as added by Ord. #12-04-01, May 2012)