

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. YARD SALES AND GARAGE SALES.
7. ADULT ORIENTED ESTABLISHMENTS.

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 to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1969 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

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1969 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1969 Code, § 5-202)

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

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

¹Municipal code reference
Privilege taxes: title 5.

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

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

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

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

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

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

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1969 Code, § 5-203)

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

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1969 Code, § 5-204)

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

delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1969 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1969 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1969 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1969 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1969 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1969 Code, § 5-210)

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

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1969 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1969 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1969 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Roadblocks used to conduct solicitations.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1969 Code, § 5-301)

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

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity. Evidence of good character and reputation for honesty and integrity shall be furnished in the following manner: If the applicant be a resident of Giles County, Tennessee, then the application shall be accompanied by two certificates so stating, and if the applicant be a non-resident of Giles County, the application shall contain five (5) statements of good character and reputation for honesty and integrity by people living in their home community, which said recommendation shall contain the official title, if any or the profession or occupation of the person making the statement.

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1969 Code, § 5-302, as amended by Ord. #_____, July 1979)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1969 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1969 Code, § 5-304)

9-305. Roadblocks used to conduct solicitations. It is prohibited for any solicitations to be conducted by the use of roadblocks or standing in the streets, stopping cars, or approaching cars while stopped in streets in conducting a solicitation. (Ord. #____, July 1979)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Hours of operation regulated.

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

9-401. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 12:00 P.M. and 6:00 A.M. on other days. (1969 Code, § 5-401)

9-402. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1969 Code, § 5-402)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of Ardmore and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Ardmore and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #80-11-06 dated November 6, 1980 in the office of the city recorder.

CHAPTER 6

YARD SALES AND GARAGE SALES

SECTION

9-601. Limited number of sales per year.

9-602. Exempt from chapter.

9-601. Limited number of sales per year. No resident citizen of the City of Ardmore shall conduct or allow to be conducted any sale of items of personal property more often than four (4) four per year, per residence, with each sale limited to not more than three (3) days in duration.

The sale of items of personal property shall include, but not be limited to, the terms yard sale and garage sale.

The provisions of this chapter have no application to merchants or those people who maintain a business license for sale of such items to the consuming public for a livelihood. (Ord. #____, July 1983)

9-602. Exempted from chapter. The local charitable and non-profit organizations are exempt from the provisions of this chapter. (Ord. #____, July 1983)

CHAPTER 7

ADULT ORIENTED ESTABLISHMENTS

SECTION

9-701. Purpose.

9-702. Definitions.

9-703. Tennessee Code Annotated requirements.

9-704. Unlawful acts.

9-705. Locations.

9-706. Fines.

9-701. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. (Ord. #98-05-07, May 1998, as replaced by Ord. #A0 99-10-07, Oct. 1999)

9-702. Definitions. (1) Establishment means and includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (d) The relocation of any sexually oriented business; or
- (e) A sexually oriented business or premises on which the sexually oriented business is located.

(2) "Sexually oriented business/establishment" means any commercial establishment which for a fee or incidentally to another service, regularly presents material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section for observation by patrons therein. "Sexually oriented business/establishment" also means any commercial establishment to which the public, patrons or members are invited or admitted

and where are so physically arranged as to provide booths, separate from the common areas of the premises for the purpose of viewing sexually oriented motion pictures, sexually oriented movies, sexually oriented films or sexually oriented videos.

(3) "Sexually oriented" means any exhibition of any motion pictures, films or videos depicting "specified sexual activities" or "specified anatomical area" or any live performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers a significant or substantial portion of which depicts any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas."

(4) "Specified sexual activities" means and includes any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, female breasts;
- (b) Sex acts, normal or perverted, actual or simulated; or
- (c) Masturbation, actual or simulated; or
- (d) Human genitals in a state of sexual arousal.

(5) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
 - (i) Human genitals;
 - (ii) Pubic region;
 - (iii) Buttocks; and
 - (iv) Female breasts below a point immediately above the top of the areola; and

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

(6) "Sexually oriented businesses" shall include but not limited to: adult cabaret, massage parlor, adult bookstore, and adult video store.

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

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

(9) "Adult bookstore" means an establishment having as a substantial or significant portion its stock and trade in books, films, video cassettes, magazines, computer software, other periodicals, sex novelties or other objects of a sexual nature which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities;" or "specified anatomical area."

(10) "Sexually oriented video store" means a commercial establishment having a majority of its stock or a majority of its floor space dedicated to

"sexually oriented videos," which are rented or sold. "Sexually oriented videos" means a video, CD, laser disk or similar medium with a cover that depicts "specified sexual activities" or "specified anatomical areas" or a transparent or less than opaque cover through which "specified sexual activities" or "specified anatomical areas" can be viewed. (Ord. #98-05-07, May 1998, as replaced by Ord. #A0 99-09-02, Sept. 1999, and Ord. #A0 99-10-07, Oct. 1999)

9-703. Tennessee Code Annotated requirements. (1) All persons, operators, or owners of an adult-oriented establishments, as defined herein, or by applicable state law, shall comply to the requirements of Tennessee Code Annotated, §§ 39-17-901 through 39-17-908 and Tennessee Code Annotated, § 39-17-911, and Tennessee Code Annotated, § 39-17-914, and Tennessee Code Annotated, §§ 39-17-918 through 39-17-920, or be subject to prosecution under said state law.

(2) All persons, operators or owners of an adult-oriented establishment, as defined herein, or by applicable state law, shall comply with the requirements of Tennessee Code Annotated, § 39-13-511 or be subject to prosecution under the provisions of said statute. (as added by Ord. #A0 99-10-07, Oct. 1999)

9-704. Unlawful acts. No person who maintains, owns or operates an adult-oriented establishment shall permit "specified sexual activities" as defined in this chapter to occur on the premises. (as added by Ord. #A0 99-10-07, Oct. 1999)

9-705. Locations. No adult-oriented establishment may begin to operate except within the confines of an M-1 zoning district as defined under the zoning laws of the City of Ardmore.

No adult-oriented establishment shall be operated or maintained within two thousand (2000') feet of a residentially zoned district, the property line of a lot devoted to residential use, a church, a state licensed day care facility, public library, or private/public education facility, funeral parlor, a public park, or another adult oriented establishment as defined herein. To determine the distance requirements under this section, said distance limitation shall be measured in a straight line from and to the nearest lot lines of the premises for the adult-oriented establishment and the lot lines of the above defined areas. (as added by Ord. #A0 99-10-07, Oct. 1999)

9-706. Fines. Any person violating this chapter shall commit an offense against the City of Ardmore, Tennessee, and upon conviction shall be fined under appropriate state law, or shall be fined for a conviction with the City Court of Ardmore, Tennessee, with the maximum fine allowed by law. Each day such violation shall continue shall constitute a separate offense and be subject to the maximum fine. Nothing in this chapter shall be construed to infringe

upon or to violate the First Amendment of the United States Constitution or any provisions of the Constitution of the State of Tennessee. (as added by Ord. #A0 99-10-07, Oct. 1999)