

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
- 9-102. Business permits.
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- 9-104. Location of items for sale in businesses.
- 9-105. Recycling businesses.

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.

9-102. Business permits. (1) Each new business which shall be established within the corporate limits of the Town of Atwood, Tennessee shall apply to the town recorder for a business permit. Each applicant shall pay an application fee of five dollars (\$5.00) and the said application shall be made in

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

writing on a form approved by the town recorder and made available to any person so requesting.

(2) Each written application submitted to the town for a business license shall be presented to the next regularly scheduled meeting of the mayor and board of aldermen for their approval or disapproval. The owner or owners of the proposed business shall appear at the said meeting and shall answer any and all pertinent questions by the board.

(3) The board has the right to refuse to issue a business permit to any proposed business which will be hazardous or injurious to the health, safety, well being and morals of the citizens of the Town of Atwood or which business might constitute a public nuisance.

(4) The business permit so issued by the board shall be valid until:

(a) The ownership or nature of the business changes; or

(b) The business engages in such activities which, in the opinion of the board, is in violation of subsection (3) of this section. The board can revoke the permit of any such business only after notice and a hearing at a regularly scheduled meeting of the board.

(5) The owners of any business operating in violation of this section shall be subject to a fine of not more than fifty dollars (\$50.00) per day for each day of the operation of said business which violates this section. (Ord. #221, Dec. 1983)

9-103. Business operations. (1) Each business establishment shall operate so as not to be hazardous or injurious to the health, safety, well being or morals of the citizens of the Town of Atwood, nor shall the said business constitute a public nuisance.

(2) The owners of a business operating in violation of this section shall be subject to a fine of not more than fifty dollars (\$50.00) per day for each day of operation in violation of this section. (Ord. #222, Dec. 1983)

9-104. Location of items for sale in businesses. (1) Each business establishment shall operate so that all items held out for sale to customers shall be kept inside the building which constitutes the place of business or within twenty feet (20') of the said building. This section shall not apply to automobiles held for sale to the public nor to gasoline and/or oil products and gasoline pumps, and fruit stands, yard sales, or flea markets which operate no more than three (3) consecutive days.

(2) The operator of a business operating in violation of this section shall be subject to a fine of not more than fifty dollars (\$50.00) per day for each day of operation in violation of this section. (Ord. #223, March 1984)

9-105. Recycling businesses. (1) It shall be unlawful for any person, firm or corporation to operate within the corporate limits of the Town of Atwood a recycling business.

(2) "Recycling business" shall include, but not be limited to, any business which shall process for resale or reuse paper, glass, garbage, trash, hazardous waste or any similar material.

(3) Any person, firm or corporation in violation of this section shall upon conviction be subject to a fine of fifty dollars (\$50.00) a day or imprisonment up to thirty (30) days, or both.

(4) Not applicable to non-profit organizations. (Ord. #235, Sept. 1989)

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.

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.

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

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

¹Municipal code references
Privilege taxes: title 5.

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

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

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

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

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

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

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

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

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

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

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

police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, 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.

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.

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.

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen.

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced.

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

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing.

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.

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.

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the town 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.

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant.

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

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.

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

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television service shall be furnished to the Town of Atwood and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Atwood 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. #239 dated December 12, 1996 in the office of the town recorder.

CHAPTER 5**GRAIN ELEVATOR COMPANIES****SECTION**

9-501. Grain elevator companies.

9-502. Unlawful to operate grain elevator inside corporate limits.

9-501. Grain elevator companies. (1) Every grain elevator company and/or grain company operating in the corporate limits of the Town of Atwood that is located within one thousand feet (1,000') of any retail business, factory or church, shall operate its business so as to minimize pollution of the air by dirt, dust and chaff from the said operation. Specifically, each grain elevator company and/or grain company which operates grain elevators so located shall either have:

- (a) A filtering system to collect said pollution; or
- (b) A sprinkling system to minimize said pollution.

(2) Every owner or operator of any grain elevator and/or grain company operating in violation of this section, shall be fined fifty dollars (\$50.00) for each day of operation in violation of this section.

(3) This section shall not apply to any grain storage bins. (Ord. #224, June 1984)

9-502. Unlawful to operate grain elevator inside corporate limits. It shall be unlawful for any person, firm, or corporation to operate a grain elevator inside the corporate limits of Atwood, Tennessee. Violation of this section shall subject the violating party to a fine of fifty dollars (\$50.00) per day of operation which violates this section. (Ord. #228, Oct. 1987)