

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CHARITABLE ROADBLOCKS.
3. YARD SALES.
4. CABLE TELEVISION.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

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. Violation 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 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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions 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, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Greene County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "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.

(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

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, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 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).

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. 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.

(6) "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.

9-102. Exemptions. The terms of this chapter shall neither apply 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 persons selling agricultural products, who, in fact, themselves produced the products being sold.

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 or religious 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.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

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

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

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a

nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit.

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor 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.

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.

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.

9-108. Suspension or revocation of permit. (1) Suspension 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) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or 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 the hearing. Such notice shall be mailed to the permit holder 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.

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 six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violation 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 under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 2

CHARITABLE ROADBLOCKS

SECTION

- 9-201. Definitions.
- 9-202. Eligibility.
- 9-203. Exemptions.
- 9-204. Restrictions.
- 9-205. Permits.
- 9-206. Records.
- 9-207. Identification.
- 9-208. Violations and penalty.

9-201. Definitions. (1) "Contributions" means the promise or grant of any money or property of any kind or value, including the payment or promise to pay in consideration of a sale, performance or show of any kind which is advertised or offered in conjunction with the name of any charity.

(2) "Person" means any person or group acting individually or in concert;

(3) "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable organization.

(4) "Roadblock" means any activity by one (1) or more persons which obstructs or slows traffic and includes, but is not limited to, a person standing on a street in such a position or moving to a position that when a vehicle stops for a traffic signal, such person can talk to the driver or any passenger for the purpose of selling or promoting the sale of anything or soliciting a contribution or gift of any kind.

(5) "Sign" means any type of display, sign, placard, signal or other device which advertises any activity and is not an official traffic control device or directional sign;

(6) "Solicitation roadblock" means the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(7) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right of way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

9-202. Eligibility. Charitable organizations desiring to conduct a solicitation roadblock shall be restricted to:

(1) Charitable organizations that have their principal headquarters and meeting place within the municipal boundaries of the Town of Baileyton.

(2) Members of an organization which has received a determination of exemption from the internal revenue service under 26 U.S.C. §501(c)(3) or (4), subject to the provisions of this section.

9-203. Exemptions. The eligibility requirements stated in § 9-202 shall not apply to bona fide religious institutions, educational institutions, volunteer fire departments, rescue squads, non-profit athletic organizations, or local civil defense organizations.

9-204. Restrictions. (1) Roadblocks shall be limited to Saturdays and Sundays from 7 A.M. to 12:00 noon.

(2) No professional solicitor shall solicit in the name of a charitable organization.

(3) All persons participating in a roadblock shall be at least eighteen (18) years of age or older;

(4) Roadblocks shall be limited to two participants at each corner, i.e., a maximum of eight (8) active participants at a four-way intersection.

(5) All participants will be equipped with high visibility clothing.

(6) Organizations are required to provide a minimum of four (4) high visibility safety cones.

(7) The members of the organization shall take reasonable and prudent precautions to prevent both the disruption of traffic flow and the injuries to persons or property.

(8) Persons participating in the roadblock shall remove all signs or other displays, and shall clean up all litter occurring as a result of the solicitation upon completion of the roadblock;

(9) The person in charge of roadblock, or his designee, shall be present throughout the time of the roadblock.

(10) No person, except a law enforcement officer, fireman or one with authority to control traffic and the use of a street, shall establish a roadblock without a permit.

(11) No person, group or organization shall be on a street without a permit approved by the board of mayor and aldermen to:

(a) Solicit gifts or contributions or cause the solicitation of gifts or contributions;

(b) Sell, offer to sell or cause the selling or offering to sell any goods, whether the sale of such goods occurs on a street or off a street;

(c) Promote or advertise any activity; or

(d) Place a sign on a street to advertise or promote any activity.

(12) No person shall disobey an order to move or remove a sign issued by a person who is a law enforcement officer, firefighter, public works employee,

or person with authority to control traffic on a street or to maintain public safety on a street.

9-205. Permits. (1) Any person, group or organization wishing to solicit contributions under the terms of this chapter shall make a written request to the town recorder for a permit authorizing such solicitation. The request shall include the name of the person, group or organization, the proposed date of the roadblock and the purpose for the solicitation, including the proposed use of the funds to be collected. The recorder may also require such additional information as is deemed necessary to make a decision concerning the permit request.

(2) The person in charge of roadblock shall apply for a permit from at least ten (10) business days before the establishment of the roadblock;

(3) The town recorder shall approve or deny the application within five (5) days of request.

(4) Any applicant denied approval of a permit may request, in writing, to appear before the board of mayor and aldermen for reconsideration.

(5) Each permit will be assigned a number and shall be issued by the town recorder's office.

(6) A copy of the permit must be available at all solicitation locations.

(7) Only one (1) permit will be issued per weekend.

(8) No person, group, or organization shall be granted more than two (2) permits per year.

9-206. Records. True and accurate fiscal records, including but not limited to, all income and expenses, shall be made available, upon request, to the Town of Baileyton.

9-207. Identification. It is the duty of every charitable organization to furnish identification to persons who solicit contributions from the public on behalf of the charitable organization. The solicitor shall be required to have and produce or display, on demand, identification indicating that the solicitor has been duly authorized by the organization for which the solicitor is soliciting. Such identification shall include, but not be limited to, the name of the holder of the identification and the name and the permit number of the charitable organization.

9-208. Violations and penalty. Any person violating this chapter shall be subject to a penalty under the general penalty provision of this municipal code. Each day a violation continues shall constitute a separate and distinct offense.

CHAPTER 3

YARD SALES

SECTION

- 9-301. Definitions.
- 9-302. Property permitted to be sold.
- 9-303. Permit required.
- 9-304. Permit procedure.
- 9-305. Permit conditions.
- 9-306. Hours of operation.
- 9-307. Exceptions.
- 9-308. Display of sale property.
- 9-309. Display of permit.
- 9-310. Advertising.
- 9-311. Persons exempted from chapter.
- 9-312. Violations and penalty.

9-301. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

9-302. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

9-303. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the city recorder. Members of more than one residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location.

9-304. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the city recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed yard sale is to be held.
- (c) The date or dates upon which the sale shall be held.
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year.
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.
- (f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit.

9-305. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year.

9-306. Hours of operation. Yard sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday).

9-307. Exceptions. (1) If sale not held because of inclement weather. If a yard sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth yard sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder.

9-308. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

9-309. Display of permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official.

9-310. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the yard sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the yard sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the yard sale activities.

9-311. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Baileyton, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances.

9-312. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code.

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 Town of Baileyton and its inhabitants under franchise granted by the board of mayor and aldermen of the Town of Baileyton, Tennessee. The rights, powers, duties and obligations of the Town of Baileyton and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹Complete details of cable television franchise agreements are available in the office of the town recorder.