

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. ADULT ORIENTED BUSINESSES.
8. YARD SALES.

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. (1980 Code, § 5-101)

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<sup>1</sup>Municipal 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.<sup>1</sup>

## SECTION

- 9-201. Permit required.
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9-201. Permit required. It shall be unlawful for any peddler, canvasser, 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. (1980 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. (1980 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the 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.

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<sup>1</sup>Municipal 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 properly to 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 and, if so, 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 town to cover the cost of investigating the facts stated therein. (1980 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 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 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 recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The recorder shall keep a permanent record of all permits issued. (1980 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the recorder in the denial of a permit shall have the right to appeal to the board of commissioners. Such appeal shall be taken by filing with the chairman within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The chairman 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. (1980 Code, § 5-205)

9-206. Bond. Every permittee shall file with the recorder a surety bond running to the town 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 the Town of Burns 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 town 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 town 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. (1980 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 town 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. (1980 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. (1980 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1980 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. (1980 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 commissioners, 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 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 chairman may suspend a permit pending the revocation hearing. (1980 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. (1980 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire one year from the date of issuance and shall be renewed without cost if the permittee applies for and obtains a new permit within thirty (30) days thereafter. 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. (1980 Code, § 5-213)

## CHAPTER 3

CHARITABLE SOLICITORS

## SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Roadblocks prohibited.
- 9-304. Form and exhibition of permit.
- 9-305. Badges, signs, etc.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose within the Town of Burns without a permit from the board of commissioners authorizing such solicitations. Provided, however, that this chapter shall not apply to any organization or church operated exclusively for charitable or religious or other non-profit purposes if the solicitations by them 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 meetings or assemblies of any such established organization or church. (1980 Code, § 5-301)

9-302. Prerequisites for a permit. No such solicitation permit shall be issued unless the following prerequisites are met:

(1) The applicant for the permit must be shown to have a good character and reputation for honesty and integrity, or, if the applicant is not an individual person, every member, managing officer, or agent of the applicant to be involved in the solicitation must have a good character or reputation for honesty and integrity. The foregoing requirements shall be deemed not to have been met if it shall appear that any of the persons involved in the solicitation has ever been convicted or found guilty of a criminal offense as provided by the laws of the State of Tennessee or of any other state.

(2) The solicitation must be under the direct control and supervision of named persons who shall appear before the board of commissioners for the purpose of applying for the permit.

(3) The applicant has not engaged in any fraudulent transaction or enterprise or any activity giving the board of commissioners a reasonable basis to believe that denial of the permit is required to protect the citizens of the town from fraudulent solicitations.

(4) The solicitation shall be for a bona fide charitable or religious purpose with no remuneration or profit to the applicant, if an individual, or to any member, managing officer, or agent of the applicant if the applicant is not an individual person. The purpose of this provision is to prevent anyone from earning personal profit or remuneration from solicitation under the guise of

soliciting for charitable or religious purposes, thereby defrauding any citizens of the Town of Burns.

(5) All applications for permits shall specify the nature and extent of the solicitation intended as to dates, times, and places, with particular reference to whether or not the solicitation is to be done door-to-door or by "road block." (1980 Code, § 5-302)

9-303. Roadblocks prohibited. It shall be unlawful for charitable organizations to solicit contributions at roadblocks within the Town of Burns. (1980 Code, § 5-303)

9-304. Form and exhibition of permit. The permit referred to above shall be in such form as the board of commissioners might adopt by resolution, and any solicitor or persons required by this chapter to have a permit shall exhibit such permit at the request of any law enforcement officer, official of the Town of Burns, or person solicited. (1980 Code, § 5-304)

9-305. Badges, signs, etc. All persons engaging in charitable or religious solicitations as referred to in this chapter shall at all times during the solicitation, display by badge, sign, or other device readily read and/or understood by persons being solicited, identification of the nature and purpose of the solicitation, including the name of the organization, if any, in charge of the solicitation and the name of the individual doing the solicitation. (1980 Code, § 5-305)

## CHAPTER 4

TAXICABS<sup>1</sup>

## SECTION

- 9-401. Taxicab franchise required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability or bond insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

9-401. Taxicab franchise required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the town. (1980 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of commissioners; and make a recommendation to either grant or refuse a franchise to the applicant. The

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.



board of commissioners shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of commissioners shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1980 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the town. (1980 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of commissioners, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1980 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1980 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the town shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1980 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1980 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1980 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the town who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1980 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of commissioners, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1980 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the town for the purpose of obtaining patronage for their cabs. (1980 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the town for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging

passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1980 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1980 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1980 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to blow the automobile horn unnecessarily; or to otherwise disturb unreasonably the peace, quiet and tranquility of the town in any way. (1980 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1980 Code, § 5-416)

## CHAPTER 5

POOL ROOMS<sup>1</sup>

## SECTION

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1980 Code, § 5-501)

9-502. 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. (1980 Code, § 5-502)

9-503. 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 written consent of the mother, guardian, or other person having legal control of such minor must be obtained. If the minor is in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1980 Code, § 5-503)

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television service shall be furnished to the Town of Burns and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the Town of Burns 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.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #41; Ord. #116 (May 1998); Ord. #125 (Aug. 1999); and Ord. #137, (Jan. 2000) in the office of the city recorder.

## CHAPTER 7

ADULT ORIENTED BUSINESSES

## SECTION

9-701. Definitions.

9-702. Location restrictions.

9-701. Definitions. Definition of terms used in this chapter is as specified in Tennessee Code Annotated, § 7-51-1401:

(1) "Adult" means a person who has attained eighteen (18) years of age;

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

(3) "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 performance, any actual or simulated performance of specified sexual activities, including removal of articles of clothing or appearing unclothed;

(4) "Adult-oriented establishment" means any commercial establishment, business or service, or portion thereof, which offers, as its principal or predominant stock or trade, sexually oriented material, devices, or paraphernalia or specific sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults "adult-oriented establishment" includes but is not limited to:

(a) "Adult book stores," which means any corporation, partnership or business of any kind which has as its principal or predominant stock or trade, books, magazines or other periodicals and which offers, sells, provides or rents for a fee:

(i) Any sexually-oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or

(ii) Any sexually-oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

(iii) Any sexually oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age;

(b) "Adult motion picture theatres," which means an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or

relating to specified sexual activities for observation by patrons therein; and

(c) "Adult shows" or "adult peep shows," which includes all adult shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities;

(5) "Bestiality" means sexual activity, actual or simulated, between a human being and an animal;

(6) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death;

(7) "Person" means an individual, partnership, firm, corporation or association;

(8) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, humiliation, torture or death upon another person or animal;

(9) "Specified sexual activities" means activities, services or performances that include the following sexual activities and/or the exhibition of the following anatomical areas:

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

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts; and

(10) "Sexually oriented material" means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits human male genitals in a discernibly turgid state, even if completely covered. (as added by Ord. #136, Nov. 2000)

9-702. Location restrictions. Adult oriented businesses shall be permitted in any commercial district provided that the adult oriented business may not be operated within:

(1) 1,000 feet measured from property line to property line, of a school or educational or school related facility, church or religious or church related or church operated facility, public or other recreation facility, or a not for profit educational or scientific facility, or a cemetery, or a licensed day care facility, or a day-care drop off facility recognized by the State of Tennessee.

(2) 1,000 feet measured from property line to property line, or a boundary of a residential zone;

(3) 1,000 feet measured from property line to property line, of another adult-oriented business establishment. (as added by Ord. #136, Nov. 2000)

CHAPTER 8

YARD SALES

SECTION

- 9-801. Definitions.
- 9-802. Property permitted to be sold.
- 9-803. Permitted number of yard sales per year.
- 9-804. Hours of operation.
- 9-805. Display of sale property.
- 9-806. Permit required.
- 9-807. Advertising, signs.
- 9-808. Public nuisance.
- 9-809. Inspection, arrest authority of inspector.
- 9-810. Parking.
- 9-811. Persons exempt from this chapter.
- 9-812. Severability.
- 9-813. Penalty.

9-801. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein:

(1) "Yard sale" shall mean and include all general sales, open to the public, conducted from or on a residential premise in any zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "auction," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than two (2) specific items 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. (as added by Ord. #165, Dec. 2005)

9-802. Property permitted to be sold. It shall be unlawful for any individual to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #165, Dec. 2005)

9-803. Permitted number of sales per year. It shall be unlawful for any residents and/or family household to conduct more than four (4) yard sales, with a minimum of fourteen (14) days between each, during any one (1) calendar year. If members of more than one(1) residence and/or family household join in



the operation of a sale, it shall be considered as a sale for each and all such residences and/or family households. (as added by Ord. #165, Dec. 2005)

9-804. Hours of operation. Such sales shall be limited in time to no more than the daylight hours of three (3) consecutive days. (as added by Ord. #165, Dec. 2005)

9-805. Display of sale property. Personal property offered for sale may be displayed within the residence, porch, in a garage, carport, and/or in any yard, but shall not be permitted within the public right-of-way. (as added by Ord. #165, Dec. 2005)

9-806. Permit required. A numbered permit will be issued in the individual's name applying for the permit. The numbered permit shall apply to that individual and to a specific location. No individual shall be awarded more than four (4) permits per calendar year and no location shall hold more than four (4) sales per calendar year. (as added by Ord. #165, Dec. 2005)

9-807. Advertising, signs etc. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard sale:

(a) Two (2) signs permitted. Two (2) signs of not more than four (4) square feet each shall be permitted to be displayed on the property of the residence 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 upon 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 upon whose property such signs are to be placed.

(c) Permit number assigned must be displayed on the back of signs.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than twelve (12) hours prior to the commencement of such a sale.

(3) Removal of signs. Signs must be removed immediately upon the conclusion of the sale. (as added by Ord. #165, Dec. 2005)

9-808. Public nuisance. Individuals conducting a yard sale and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on said premises. All such individuals shall obey the reasonable orders of any member of the police or fire departments of the Town of Burns in order to maintain the public health, safety and welfare. (as added by Ord. #165, Dec. 2005)

9-809. Inspection, authority of inspector. The zoning officer, a police officer or any other official designated by the zoning officer, shall have the right of entry upon any premises showing evidence of a yard sale, for the purpose of enforcement of this chapter and shall have the right to issue citations for violations of this chapter. (as added by Ord. #165, Dec. 2005)

9-810. Parking. All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the police department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any yard sale. (as added by Ord. #165, Dec. 2005)

9-811. Persons exempted from this chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

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

(4) Persons acting in accordance with their responsibilities as court-appointed decedents' personal representatives.

(5) Any bona fide charitable eleemosynary, educational, cultural or governmental institution, or organizations when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis. (as added by Ord. #165, Dec. 2005)

9-812. Severability. If any court of competent jurisdiction declares any provision to be unconstitutional or invalid, that decision shall only affect the provision so declared. The declaration shall not affect any other portion of this chapter as a whole. (as added by Ord. #165, Dec. 2005)

9-813. Penalty. Any person who violates any provision of this chapter shall be subject to the following penalties:

(1) A fine of fifty dollars (\$50.00) per violation.

(2) Each day in violation is considered a separate offense. (as added by Ord. #165, Dec. 2005)