

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. YARD/GARAGE SALES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.

SECTION

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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

(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 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) "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.

(6) "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

¹State law reference

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).

owned by a consumer, and "temporary premises" means any public or 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.

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 architectural 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 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 city council. The permit issued to any person or organization under this chapter may be suspended or revoked by the city council, after notice and hearing, for the same causes set out in subsection (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**CABLE TELEVISION****SECTION**

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. Cable television service shall be furnished to the City of Cowan and its inhabitants under franchise granted to Comcast Cable Communications, Inc. by the City Council of the City of Cowan, Tennessee. The rights, powers, duties and obligations of the City of Cowan and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #02-08-01 dated 12/5/02 in the office of the city recorder.

CHAPTER 3

YARD/GARAGE 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. Display of sale property.
- 9-308. Display of permit.
- 9-309. Advertising/signs permitted.
- 9-310. Persons exempted from chapter.
- 9-311. Violation 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) "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 or trucked in from other locations.

(2) "Yard/garage 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 ordinance, 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. (as added by Ord. #06-08-01, Aug. 2006)

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. (as added by Ord. #06-08-01, Aug. 2006)

9-303. Permit required. No yard/garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefor from the city recorder. Members of more than one (1) residence may join in obtaining a permit for a yard/garage sale to be conducted at the residence of one (1) of them. Permits may be obtained for any nonresidential location. (as added by Ord. #06-08-01, Aug. 2006)

9-304. Permit procedure. (1) Application. The applicant or applicants for a yard/garage 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/garage sale is to be held.
- (c) The date or dates upon which the sale will be held.
- (d) The date or dates of any other yard/garage 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. (as added by Ord. #06-08-01, Aug. 2006)

9-305. Permit conditions. The permit shall set forth and restrict the time and location of such yard/garage sale. No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year. If members of more than one (1) 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 three (3) permits may be issued for any nonresidential location during any calendar year. (as added by Ord. #06-08-01, Aug. 2006)

9-306. Hours of operation. Sales shall be limited in time to no more than 7:00 A.M. to 6:00 P.M. on three (3) consecutive days. (as added by Ord. #06-08-01, Aug. 2006)

9-307. 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/garage 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. (as added by Ord. #06-08-01, Aug. 2006)

9-308. Display of permit. Any permit in possession of the holder or holders of a yard/garage sale shall be posted on the premises in a conspicuous

place so as to be seen by the public, or any city official. (as added by Ord. #06-08-01, Aug. 2006)

9-309. Advertising/signs permitted. (1) Only the following specified signs may be displayed in relation to a pending yard/garage sale:

(a) Two (2) 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/garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet are permitted, provided that the premises on which the yard/garage 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 at the close of the yard/garage sale activities. (as added by Ord. #06-08-01, Aug. 2006)

9-310. 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 or 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 in the place of business wherein such sale would be permitted by zoning regulations of the city, 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.

(4) Any church or non-profit organization conducting a yard/garage sale for the purpose of fund raising. (as added by Ord. #06-08-01, Aug. 2006)

9-311. Violation and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty of twenty-five dollars (\$25.00) for each offense, up to two (2) offenses. Each subsequent offense shall be subject to a penalty of fifty dollars (\$50.00). (as added by Ord. #06-08-01, Aug. 2006)