

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

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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 a nonresident of the town, 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.

¹Municipal code references

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

Health and sanitation: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

(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 those who may canvass neighborhoods to discuss or inform the public on matters purely moral, religious or political and who do not, in the course of their discussion or presentation, seek or encourage monetary or other donations or contributions and do not offer any item for sale or lease. If in the course of their discussion contributions are sought or items offered for sale then they shall be treated as a "solicitor" as set forth in paragraph (3) 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 town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. 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 § 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" organization for charitable or religious organizations; or

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

(4) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of

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*, § 67-4-709(a)(19). Note also that *Tennessee Code Annotated*, § 67-4-709(a) prescribes that transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (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).

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 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. (Ord. #____, Nov. 2013)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newspaper deliverers, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons canvassing neighborhoods to discuss moral, religious or political issues or ideas and do not in the process seek or encourage donations or offer any goods or other items for sale or lease as set out in § 9-101(2) above. (Ord. #____, Nov. 2013)

9-103. Permit required. No person, firm or corporation operating a business as a peddler, transient vendor, solicitor or street barker, shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (Ord. #____, Nov. 2013)

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

(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 town.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitation, 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) Solicitors or canvassing people must obtain a permit fifteen (15) days prior to the planned solicitation or canvass. Each permit application must contain the name of the organization for whom the solicitation or canvass is being conducted and the number and names of the persons to be actively canvassing the properties and the dates on which the canvass is to be conducted.

(3) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a non-refundable fee of fifty dollars (\$50.00).

(4) Permit issued. Upon the completion of the application form, satisfactory review by the town marshal, and the payment of the permit fee, the town clerk shall issue a permit and provide a copy of the same to the applicant. (Ord. #____, Nov. 2013)

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

(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 town.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a blue circular sticker or decal is displayed on the property.

(6) Door to door canvassing of the residents of the town shall be limited to the hours between 9:00 A.M. prevailing time and 5:30 P.M. prevailing time. (Ord. #____, Nov. 2013)

9-106. Display of permit. Each peddler, street barker, solicitor, 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. (Ord. #____, Nov. 2013)

9-107. Suspension or revocation of permit. (1) Suspension by the town marshal. The permit issued to any person or organization under this chapter may be suspended by the town marshal 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 mayor and board of commissioners.

The permit issued to any person or organization under this chapter may be suspended or revoked by the mayor and board of commissioners, 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 town marshal 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. (Ord. #____, Nov. 2013)

9-108. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the date specified in the permit application. (Ord. #____, Nov. 2013)

9-109. Violations and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (Ord. #____, Nov. 2013)

CHAPTER 2

YARD SALES

SECTION

9-201. Prohibited generally.

9-202. Estate sales.

9-201. Prohibited generally. It shall be unlawful for any person to conduct any sale of personal property commonly known as a "yard" or "garage" sale, whether located outside or within any part of a residence or other building located within the town's residential zones. (1992 Code, § 5-201)

9-202. Estate sales. Estate sales are not included in the definition of yard sales, and are not prohibited. To conduct an estate sale the individual in charge of the sale must obtain a traffic control permit from the chief of police at least ten (10) days prior to the sale. There is no charge for the permit, however the cost for traffic control shall be calculated, charged, and collected at the time the permit is issued. (1992 Code, § 5-202)

CHAPTER 3**CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Lookout Mountain and its inhabitants under franchise granted to Comcast Cable TV by the Mayor and Board of Commissioners of the Town of Lookout Mountain, Tennessee. The rights, powers, duties and obligations of the Town of Lookout Mountain and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (1992 Code, § 13-401, modified)

¹Complete details relating to the cable television franchise agreement are available in the office of the town clerk.