

## TITLE 9

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

#### CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. FORTUNETELLERS, CLAIRVOYANTS AND SIMILAR PURSUITS.

#### CHAPTER 1

### PEDDLERS, SOLICITORS, ETC.<sup>2</sup>

#### 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 town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

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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.
- Posting advertisements and notices: title 11.
- Zoning: title 14.

<sup>2</sup>Municipal code references

- Privilege taxes: title 5.
- Trespass by peddlers, etc.: § 11-701.

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.

(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, 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" organization for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Hawkins 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 town, 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 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.

(6) "Transient vendor"<sup>1</sup> 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 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. (1990 Code, § 9-101)

**9-102. Exemptions.** The terms of this chapter shall not 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. (1990 Code, § 9-102)

**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 town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1990 Code, § 9-103)

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

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<sup>1</sup>State law references

Tennessee Code Annotated, § 62-30-101, et seq. contains permit requirements for "transitory vendors."

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 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).

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 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) 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. (1990 Code, § 9-104)

**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 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) 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.

(4) 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.

(5) Be under the age of sixteen (16). (Ord. #208, June 1999, as amended by Ord. #337, Sept. 2008)

**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. (1990 Code, § 9-106)

**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. (1990 Code, § 9-107)

**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 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. (1990 Code, § 9-108)

**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 town.

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. (1990 Code, § 9-109)

**9-110. Violation 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. (1990 Code, § 9-110)

## CHAPTER 2

### FORTUNETELLERS, CLAIRVOYANTS AND SIMILAR PURSUITS

#### SECTION

- 9-201. Permit required.
- 9-202. Application.
- 9-203. Applicant requirements.
- 9-204. Employee permit.
- 9-205. Determination of permit issuance.
- 9-206. Grounds for permit refusal.
- 9-207. Issuance of permit; renewal.
- 9-208. Permit revocation.
- 9-209. Appeal.

**9-201. Permit required.** It shall be unlawful for any person to conduct the business or occupation of, solicit for, or ply the trade of handwriting analyst for the purpose of foretunetelling, fortuneteller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist or other like business unless that person holds a valid, unexpired and unrevoked permit, issued by the city, to engage in these occupations. (as added by Ord. #13-392, June 2013)

**9-202. Application.** (1) A person seeking issuance of a permit to engage in any of the occupations enumerated in § 9-201 shall pay a permit application fee to be set by resolution of the board of mayor and aldermen.

(2) An application shall be filed with the mayor or designee, on forms provided by such official. Such application shall, at a minimum, contain the following:

- (a) The name, social security number and residence of the applicant and how long the applicant has resided there;
- (b) The particular place for which the permit is desired, designating the same by street and number, if practicable, and if not, by such other apt description as definitely locates it;
- (c) The name of the owner of the premises upon which the business permitted is to be carried on;
- (d) The name and address of the actual owner or owners of such business, and whether such business is a sole proprietorship, partnership, corporation or limited liability corporation;
- (e) A statement that the applicant is willing to be fingerprinted by the police department of the city and to be investigated by municipal, county, state and federal law enforcement agencies concerning the applicant's background and record;

(f) A statement by the applicant that he agrees to comply with all the laws of the United States, the state and the city;

(g) An oath or affidavit by the applicant that the facts set forth in the application are true. (as added by Ord. #13-392, June 2013)

**9-203. Applicant requirements.** The applicant, prior to being permitted, shall:

(1) Be eighteen (18) years of age or older;

(2) Not have been convicted of, or currently be under indictment for, a crime of any grade or any ordinance violation involving the following categories of criminal conduct; homicide, rape, robbery, arson, assault, burglary, theft, extortion, fraud, forgery, false dealing, bribery, false personage, money laundering, perjury, false swearing or subordination or either, or gambling, within ten (10) years of the date of application;

(3) Be referred to the chief of police or designee, for background in investigation and fingerprinting;

(4) Furnish the police department of the city two (2) photographs showing a front and side picture of the full face of the applicant, size two and one-half inches by two and three-fourths inches (2 1/2" x 2 3/4");

(5) Appear in person, at the time and place directed, to answer any questions the mayor or designee may have regarding the application or the result of the investigation. (as added by Ord. #13-392, June 2013)

**9-204. Employee permit.** Each employee of any such business must hold a valid, unexpired and unrevoked permit set out herein. (as added by Ord. #13-392, June 2013)

**9-205. Determination of permit issuance.** The mayor or designee shall determine whether or not to issue the permit, in accordance herewith, within a reasonable time of the completion of the application, fingerprinting and receipt of a report on the background check conducted by the police department of the city. (as added by Ord. #13-392, June 2013)

**9-206. Grounds for permit refusal.** The mayor or designee shall refuse, in writing, to issue a permit if, upon investigation, he finds that the applicant for a permit has concealed or misrepresented, or otherwise, any fact or circumstance on the application for a permit, or the applicant has not complied with all the provisions of this chapter. The mayor or designee shall deliver to the applicant a notice of his action, stating his reasons for his denial of the permit and informing the applicant of his right to appeal such denial. An appeal shall be taken, within ten (10) days of the date of the denial, by filing with the mayor or designee a notice of appeal, specifying the grounds thereof. The mayor or designee shall fix a reasonable time for the hearing of the appeal, give due notice to the applicant, and decide the same within a reasonable time.

Any applicant who is dissatisfied with the hearing decision of the mayor or designee shall have the right to subsequent appeal as set out in § 9-209. (as added by Ord. #13-392, June 2013)

**9-207. Issuance of permit; renewal.** Upon approval of the application, a permit shall be issued and the permit shall remain valid for one (1) year from the date of issuance. The Permittee shall seek reissuance of the permit in the same manner as set out herein above, including payment of the permit application fee. There shall be no proration of the required permit application fee. (as added by Ord. #13-392, June 2013)

**9-208. Permit revocation.** The mayor or designee shall revoke the permit of any person failing to comply with any of the provisions of this chapter or any other applicable laws, rules, regulations, ordinances, or upon conviction of any matters set out in § 9-206. Such revocation shall be for a period of not less than one (1) year, after not less than ten (10) days' notice to the permit holder. Notice shall issue to the permit holder to show cause why his permit should not be revoked, and shall inform the permit holder of the date, time, and place of the show cause hearing, to be held in respect thereto, before the mayor or designee. Any Permittee who is dissatisfied with the hearing decision of the mayor or designee shall have the right to subsequent appeal as set out in § 9-209. (as added by Ord. #13-392, June 2013)

**9-209. Appeal.** Any party who is dissatisfied with the hearing decision of the mayor or designee shall, within ten (10) days of said decision, request, in writing to the mayor or designee, that the board of mayor and aldermen review the decision. Such review should take place within a reasonable time, but in no event sooner than the next regular called meeting. The decision of the board of mayor and aldermen shall be final. The decision of the board of mayor and aldermen may be appealed by filing a petition of common law certiorari in the chancery court of the city within sixty (60) days of the date of the decision of the board of mayor and aldermen. Any denial or revocation of a permit will be effective during appeal unless otherwise stayed by a court of competent jurisdiction. (as added by Ord. #13-392, June 2013)