

## TITLE 9

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

#### CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS AND TRANSIENT VENDORS.
3. GARAGE SALES.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 9-101. "Going out of business" sales.  
 9-102. Regulation of signs.

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely 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. (1996 Code, § 9-101)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and residential regulations: title 12.  
 Junkyards: title 13.  
 Liquor and beer regulations: title 8.  
 Noise reductions: title 11.  
 Zoning: title 14.

Charter references

Franchises for public utilities and services: art. II, § 2.  
 Privilege taxes: art. II, § 2.

**9-102. Regulation of signs.** The erection, maintaining and use of signs, billboards, advertising, permanent or portable, off of the premises to which the signs, billboard or other advertising media is designated to identify and/or advertise within the corporate limits of the City of Sevierville is governed by the Zoning Ordinance (§ 409) and addendums as prescribed by the Sevierville Regional Planning Commission and adopted September 3, 1981. (1996 Code, § 9-102)

## CHAPTER 2

### PEDDLERS, SOLICITORS AND TRANSIENT VENDORS<sup>1</sup>

#### SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Application for permit.
- 9-205. Issuance or refusal of permit.
- 9-206. Appeal.
- 9-207. Bond.
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- 9-209. Exhibition of permit.
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- 9-214. Restrictions on peddlers and solicitors.
- 9-215. Restrictions on transient vendors.
- 9-216. Special event vendors.
- 9-217. Display of permit.
- 9-218. Additional restrictions on solicitation.
- 9-219. Violation and penalty.

**9-201. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Commercial solicitation." For purposes of this chapter, the term "commercial solicitation" shall be defined as any act, delivery or exchange not initiated by the prospective customer, which directs attention to any business, mercantile or commercial establishment, or any other commercial activity, for the purpose of directly or indirectly promoting commercial interests through sales, rentals or any exchange of value.

(2) "Peddler" means any person, firm or corporation, either a resident or a non resident 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, merchandise or food and beverages and offering or exposing the same for sale.

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<sup>1</sup>Municipal code reference

Privilege tax provisions, etc.: title 5.

(3) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, 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.

(4) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either from door to door, business to business, place to place, or 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 (1) 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.

(5) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either from door to door, business to business, place to place, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(6) "Special event vendor." Any vendor who does business during recognized festivals, special events, or exhibitions/shows which have been approved by or sponsored by either the City of Sevierville or the Sevierville Chamber of Commerce and who limits the business to selling and offering to sell, novelty items, souvenirs, crafts, or food and beverages in the area recognized as that of the festival, special event, exhibition/show.

(7) "Transient vendor." 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. (Ord. #2006-033, Oct. 2006)

**9-202. Exemptions.** The terms of this chapter shall not apply to persons selling at wholesale to dealers, to newsboys, or to bona fide merchants who merely deliver goods in the regular course of business. (Ord. #2006-033, Oct. 2006)

**9-203. Permit required.** No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor, 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. (Ord. #2006-033, Oct. 2006)

**9-204. 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 vendor, 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.
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (5) The length of time or 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) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefore.
- (8) 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 vendor, the addresses from which such business was conducted in those municipalities.
- (9) At the time of filing the application, a fee of twenty dollars (\$20.00), except religious and charity solicitors, shall be paid to the City to cover the cost of investigating the facts stated therein. (Ord. #2006-033, Oct. 2006)

**9-205. 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 criminal record, 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; business responsibility and criminal record 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 § 9-207. The Recorder shall keep a permanent record of all permits issued. (Ord. #2006-033, Oct. 2006, modified)

**9-206. 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 Mayor and Aldermen. Such appeal shall be taken by filing with the Mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The Mayor 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. (Ord. #2006-033, Oct. 2006)

**9-207. Bond.** Every permittee shall file with the Recorder a surety bond running to the City 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 City and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the City 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 City 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. (Ord. #2006-033, Oct. 2006, modified)

**9-208. 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 City 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. (Ord. #2006-033, Oct. 2006)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any Police Officer or any citizen solicited. (Ord. #2006-033, Oct. 2006, modified)

**9-210. Police to enforce.** It shall be the duty of all Police Officers to see that the provisions of this chapter are enforced. (Ord. #2006-033, Oct. 2006, modified)

**9-211. Revocation or suspension of permit.**

(1) Permits issued under the provisions of this chapter may be revoked by the Board of Mayor and Aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for a 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 Mayor, City Administrator and his/her designee, may suspend a permit pending the revocation hearing. (Ord. #2006-033, Oct. 2006)

**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. (Ord. #2006-033, Oct. 2006)

**9-213. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. 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.

Special event permits shall only be for the dates of the special event, festival, etc. and shall expire at midnight of the last day of the event. (Ord. #2006-033, Oct. 2006)

**9-214. Restrictions on peddlers and solicitors.** No peddler, solicitor, solicitor for charitable purposes, solicitor for subscriptions, transient vendor or commercial solicitor shall:

(1) Be permitted to set up and operate a booth or stand on any street, sidewalk, or on any property owned by the City of Sevierville.

(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, or creating other noise, except that the event vendor shall be allowed to cry out to call attention to his business or merchandise during recognized parade, special events 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.

(6) Engage in any of the activities of a "peddler," "solicitor," "solicitor for charitable purposes," or "solicitor for subscriptions," "transient vendors," "commercial solicitation"; cannot engage in any of the aforementioned described activities within or upon any City-owned or leased property utilized as a park, recreation area, recreation building, or parking lot serving Sevierville Convention Center. (Ord. #2006-033, Oct. 2006, modified)

**9-215. 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. (Ord. #2006-033, Oct. 2006)

**9-216. Special event vendors.** Special event vendors shall be allowed to engage in their vending activities at special events, festivals, shows/exhibits upon becoming a permittee to do so by doing the following:



(1) Provide to the sponsor of the event, either City of Sevierville or Sevierville Chamber of Commerce the following:

(a) Complete name and permanent address of the applicant.

(b) The name and address of each person who will make sales at the event.

(c) Brief description of the type of business and the goods to be sold.

(d) Applicant shall sign a statement that all rules, regulations and directions issued by City or Chamber will be complied with.

(e) If applicant is food vendor, a state health card for food handling is required.

(2) If the application is to the City, it shall be presented to the Department Head Coordinator of the event and if it is to the Sevierville Chamber of Commerce, it shall be presented to the person in charge of the event.

(3) There is no cost for the permits. (Ord. #2006-033, Oct. 2006)

**9-217. Display of permit.** Each peddler, 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. (Ord. #2006-033, Oct. 2006)

**9-218. Additional restrictions on solicitation.** (1) Definitions:

(a) "Solicit" or "solicitation" for the purpose of this section, is any request made in person on a street, sidewalk, or other area open to the public, or on private property as set forth in this section, asking for an immediate donation of money or other thing of value, including but not limited to the purchase of an item or service for an amount exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person. A "solicitation" as defined in this section, shall be deemed completed when made, whether or not the person making the solicitation receives any donation or makes any sale referred to in this section;

(b) "Highway" for the purpose of this section, means the entire width between the boundary lines of every way when any part thereto is open to the use of the public for purposes of vehicular travel;

(c) "Median" for the purpose of this section, means the reserved area that separates opposing lanes of traffic on divided roadways.

(2) Restrictions on solicitation. Solicitation in any of the following manners, times and places is prohibited:

(a) By using profane or abusive language, either during the solicitation or following a refusal;

(b) By intentionally touching the person being solicited without the person's consent;

(c) By intentionally obstructing the path of the person, or of the vehicle of the person, being solicited;

(d) By following a person who is walking away from the person soliciting the donation, unless that person has indicated that the person wishes to make a donation;

(e) By making any statement, gesture, or other communication that would cause a reasonable person to feel fear of personal harm for refusing a solicitation of a donation;

(f) By intentionally obstructing pedestrian or vehicular traffic;

(g) After sunset or before sunrise. The times of sunset and sunrise shall be as published by the United States Naval Observatory;

(h) In any public transportation vehicle or facility or within twenty feet (20') of any bus or other public transportation hub;

(i) From any operator or occupant of a motor vehicle or from any person entering or exiting a motor vehicle, including but not limited to an offer to clean the vehicle's windows or any interior/exterior parts of the vehicle;

(j) Upon any portion of the highway, or median area;

(k) Within twenty feet (20') of any intersection or crosswalk;

(l) Within twenty feet (20') of any automated teller machine; provided, however, that when an automated teller machine is located within an automated teller machine facility, the distance shall be measured from the entrance or exit of the automated teller machine facility;

(m) Within twenty feet (20') of the entrance to or exit from any public toilet facility, including but not limited to any temporary use site or portable toilet;

(n) Within twenty feet (20') of any sidewalk cafe or outdoor dining area;

(o) From any person standing in line waiting to be admitted to a commercial establishment, or to a public or private assembly or event;

(p) In any parking lot or garage owned or operated by the City, or in any entrances thereto or exits therefrom; or

(q) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or on private property where signs are posted prohibiting panhandling or soliciting.

(3) False or misleading solicitations. It is unlawful for any person to knowingly make any false or misleading representation in the course of a solicitation. False or misleading representations include, but are not limited to the following:

- (a) Making any statement that is untruthful in nature;
  - (b) Stating that the donation is needed to meet a specific need, when there are already sufficient funds to meet that need;
  - (c) Stating that the donation is needed to meet a need that does not exist;
  - (d) Stating that the solicitor is from out of town and is stranded, when that is not true;
  - (e) Stating or representing, by use of a uniform or otherwise, that a person is a member or former member of a military service, when the person is neither a present nor former member of the service indicated;
  - (f) Stating or displaying an indication of physical disability, when the person does not suffer the disability indicated;
  - (g) Use of any makeup or device to simulate any deformity; or
  - (h) Stating that a person is homeless, when he or she is not.
- (4) Severability. If any sentence, clause or phrase of this section is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this section. (as added by Ord. #O-2017-011, Sept. 2017)

**9-219. 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 by a fine not in excess of fifty dollars (\$50.00). Each day a violation occurs shall constitute a separate offense. (Ord. #2006-033, Oct. 2006, as renumbered by Ord. #O-2017-011, Sept. 2017)

## CHAPTER 3

### GARAGE SALES

#### SECTION

9-301. Definitions.

9-302. Garage sales in residential zones.

9-303. Garage sales in commercial and industrial zones.

9-304. Signage.

9-305. Persons and sale exempted.

#### **9-301. Definitions.**

(1) "Garage sales" shall mean and include all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

(2) "Goods" are meant to include any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

(3) "Person" shall mean and include individuals, partnerships, voluntary associations, and corporations. (1996 Code, § 9-501)

**9-302. Garage sales in residential zones.** Garage sales are permitted on premises located in a residential zone, according to the zoning map of the City of Sevierville, provided that:

(1) Such sales shall be limited to three (3) consecutive calendar days within each month;

(2) The person conducting the sale shall be the owner or occupant of the property upon which the sale is to take place;

(3) The person conducting the sale does not conduct such sales on a regular basis. (1996 Code, § 9-502, as amended by Ord. #2011-011, Nov. 2011)

**9-303. Garage sales in commercial and industrial zones.** Garage sales, car washes, charity auctions, and other such temporary fund raising activities are permitted on premises located in a commercial or industrial zone, according to the zoning map of the City of Sevierville, provided that such activities are conducted by or on behalf of non-profit service clubs, charitable associations, local government, or religious groups. Any person aggrieved by the action of the Code Enforcement Officer, in denial of permission to conduct a fund-raising activity, shall have the right to appeal to the Sevierville Regional Planning Commission at their next scheduled meeting. (Ord. #2011-011, Nov. 2011)

**9-304. Signage.** The following regulations shall govern signage for all garage sales:

- (1) No off-premises directional and/or advertising signs are permitted;
- (2) No more than two (2) signs may be placed at the location of the sale;
- (3) Signs may be posted no earlier than one (1) day prior to the beginning of the sale, and must be removed within one (1) day of the close of the sale. (1996 Code, § 9-504)

**9-305. Persons and sale exempted.** The provisions of this chapter shall not apply to persons selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number. (1996 Code, § 9-505)