

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, ETC.
2. GARAGE SALES AND FLEA MARKETS.

CHAPTER 1

PEDDLERS, ETC.²

SECTION

- 9-101. Permit required.
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9-101. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor 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. Only one (1) permit shall be issued per application.

¹Municipal 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.

²Municipal code references

Privilege taxes: title 5.

Group permits are prohibited. (2003 Code, § 5-101, as amended by Ord. #12-454, Jan. 2013)

9-102. 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. (2003 Code, § 5-102)

9-103. 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.
- (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 to evaluate properly 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; 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 established by resolution of the board of mayor and aldermen shall be paid to the municipality to cover the cost of investigating the facts stated therein. (2003 Code, § 5-103)

9-104. 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 city 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 § 9-106. The recorder shall keep a permanent record of all permits issued. (2003 Code, § 5-104)

9-105. 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. (2003 Code, § 5-105)

9-106. Bond. Every permittee shall file with the recorder a surety bond running to the city in the amount of ten thousand dollars (\$10,000.00). 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, itinerant 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. (2003 Code, § 5-106, as amended by Ord. #12-454, Jan. 2013)

9-107. 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 radio or 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. (2003 Code, § 5-107)

9-108. 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. (2003 Code, § 5-108)

9-109. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (2003 Code, § 5-109)

9-110. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (2003 Code, § 5-110)

9-111. 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 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 city 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. (2003 Code, § 5-111)

9-112. 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. (2003 Code, § 5-112)

9-113. 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. (2003 Code, § 5-113)

CHAPTER 2

GARAGE SALES AND FLEA MARKETS.

SECTION

9-201. Definitions.

9-202. Permit required.

9-203. Sale conditions.

9-204. Restrictions on garage sales and flea markets.

9-205. Inspection and penalty.

9-201. Definitions. For the purposes of this chapter, the following phrases are defined as follows:

(1) "Garage sale" shall mean and include all general sales, open to the public, conducted from or on a residential premise in any residential zone for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement of such shall specifically name 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, the sale of which at garage sales is expressly prohibited. (2003 Code, § 5-601)

9-202. Permit required. (1) It shall be unlawful for any individual or group of individuals to engage in any garage sale as defined above without having first obtained a permit therefore from the recorder for the City of Church Hill. The property owner desiring to conduct the garage sale shall apply on a form provided in person at the city offices by submitting an application at least one (1) day prior to the proposed garage sale. Each application shall be accompanied by a processing fee established by resolution of the board of mayor and alderman. A permit shall be posted in a conspicuous place during each garage sale.

(2) A governmental entity, church, school, veterans organization, fraternal organization, or other civil or charitable non-profit organization desiring to conduct a flea market sale or garage sale must obtain a permit but shall not be required to pay permit fee nor be subject to the restrictions set out in § 5-904 (2),(3) and (4). (2003 Code, § 5-602)

9-203. Sale conditions. (1) A garage sale shall be limited in time to no more than two (2) consecutive days and must begin and end during the daylight hours.

(2) No signs advertising the sale or giving directions to its location shall be used, erected, or allowed within the public rights-of-way. No more than two (2) signs shall be displayed in the yard of the sale. No more than three (3) signs giving directions shall be placed on private property leading to the location of the sale.

(3) The signs permitted by this section shall not be posted more than two (2) days prior to the sale and shall be removed by the end of the daylight on the last day of the garage sale.

(4) The parking of automobiles during the garage sale must conform with all parking rules and regulations of the city, must not block private driveways, must not impede traffic, and must not constitute trespass upon the property of other residents. (2003 Code, § 5-603)

9-204. Restrictions on garage sales and flea markets. (1) It shall be unlawful for any person to hold more than four (4) such sales at the same location within one (1) year preceding the date of such person's current sale.

(2) No garage sale, flea market operation, or peddling activities shall be conducted on property zoned for business, commercial, or industrial uses. It is the intent of this chapter to restrict garage sales, rummage sales, or flea market sales to the residential premises of the owner or occupier of property so as to minimize the annoyance to the public and yet enable a property owner to dispose of his own unwanted accumulated personal property.

(3) No tents, awnings, or other temporary structures shall be erected or placed on the property in connection with the garage sale.

(4) Flea market activities in which private individuals sell personal property from booths or stations on the property of another are declared to be illegal and a public nuisance. (2003 Code, § 5-604)

9-205. Inspection and penalty. (1) Any police officer of the city shall have the right of entry to any premises showing evidence of a garage sale for the purposes of enforcement or inspection and may close the sale and may issue a citation to any individual who is violating the provisions of this ordinance.

(2) Every individual article of personal property sold in violation of this chapter shall constitute a separate offense and every day a sale is conducted in violation of this chapter shall constitute a separate offense.

(3) Any person convicted of violating the terms of this chapter shall be fined not less than ten (\$10.00) dollars and not more than fifty (\$50.00) dollars for each separate offense or violation.

(4) The conducting of a garage sale without obtaining a permit or the committing of a violation of the terms of this chapter during a garage sale shall constitute a nuisance which the city may abate by the filing of an appropriate

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complaint for injunctive relief in the Chancery Court or Circuit Court for Hawkins County. (2003 Code, § 5-605)