

## TITLE 9

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

## CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. MOTION PICTURE FILMS AND VIDEO CASSETTES.
3. CABLE TELEVISION.
4. TAXICABS.

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

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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.

Zoning: title 14.

<sup>2</sup>Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

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.

(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 Loudon 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 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) "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

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<sup>1</sup>State 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, § 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).

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.

(6) "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.

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 agricultural 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, 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 paragraph (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 by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense.

## CHAPTER 2

MOTION PICTURE FILMS AND VIDEO CASSETTES

## SECTION

9-201. Definitions.

9-202. Rental or sale of material to minors.

9-203. Display of material.

9-204. Violations.

9-201. Definitions. Definition of terms as used herein shall be as follows:

(1) "Minor" means any person who has not reached the age of eighteen (18) years;

(2) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state;

(3) "Person" shall include the singular and the plural and shall mean and include any individual, firm, partnership, co-partnership, association, corporation, or other organization or other legal entity, or any agent or servant thereof, but shall not include libraries or educational institutions;

(4) "Rating" means the rating standards promulgated by the Classification and Rating Administration of the Motion Picture Association of America;

(5) "Rental" means the loan for monetary consideration. (Ord. #443, July 1985)

9-202. Rental or sale of material to minors. It shall be unlawful for any person to rent or sell to a minor any "R" or "X" rated motion picture film or video cassette. (Ord. #443, July 1985)

9-203. Display of material. It shall be unlawful:

(1) To display for rental or sale any "X" rated motion picture film or video cassette in any area or by any method accessible to minors, or

(2) To display, cause, or permit to be displayed at a height less than five and one half (5½) feet above the floor for rental or sale in any store, or similar place, any motion picture film package, box or container or video cassette package, box or container which exhibits nudity on said package, box or container.

(3) Each such motion picture film package, box, or container or video cassette package, box, or container displayed in violation of this section shall constitute a separate offense. (Ord. #443, July 1985)

9-204. Violations. Violation of any of the provisions of this chapter shall be a misdemeanor and punished according. (Ord. #443, July 1985)

## 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 City of Lenoir City and its inhabitants under franchise granted to Loudon County Cable TV, Inc. by the city council of the City of Lenoir City, Tennessee. The rights, powers, duties and obligations of the City of Lenoir City and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #44c dated Nov. 1975 in the office of the city recorder.

## CHAPTER 4

TAXICABS

## SECTION

9-401. Definitions.

9-402. Taxicab permit and business license required.

9-403. Procedure for applications for and issuance of permits.

9-404. Insurance or bond required.

9-405. Violations.

9-401. Definitions. The term "taxicab" when used in this chapter shall mean every motor vehicle designed and/or constructed to accommodate and transport passengers not more than five in number, exclusive of the driver, and fitted with taxi meters and/or using or having some other device, method or system to indicate and determine the passenger fare charged for distance traveled.

9-402. Taxicab permit and business license required. It shall be unlawful for any person to engage in the taxicab business or to operate a taxicab upon the streets for the City of Lenoir City unless the owner has first obtained a permit for each vehicle to be operated upon the streets of the City of Lenoir City and has a currently effective business license.

9-403. Procedure for applications for and issuance of permits. Application for taxicab permits shall be made under oath and in writing to the city recorder. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of taxicabs the applicant desires to operate on the streets of the City of Lenoir City, the makes and models of said taxicabs and such other pertinent information as the city recorder may require. Upon compliance of the applicant with the other provisions of this chapter, the city recorder shall issue duplicate permits for each taxicab listed on the application, which permits shall be at all times in the possession of the operator of such taxicabs and shall be exhibited upon request of the law enforcement officers of the city.

9-404. Insurance or bond required. No permits shall be issued or continued in operation unless and until the owner or owners of a taxicab or taxicabs have filed with the city recorder for each and every such taxicab a surety bond issued by some insurance or surety company authorized to do business in the State of Tennessee in the sum of \$350,000.00 agreeing to pay any final judgment rendered against the owner or operator of such taxicab on account of injury or death to any person or persons or damage to property.

The owner or owners of a taxicab or taxicabs may in lieu of such bond file with the city recorder a policy or policies of liability insurance issued by a public liability insurance or surety company authorized to do business in Tennessee covering each and every taxicab for which a permit is requested with limits of not less than \$130,000.00 because of bodily injury or death of one person and \$350,000.00 because of bodily injury or death to two or more persons in any one accident and \$50,000.00 because of injury or of destruction of property or other in any one accident. Said insurance policy shall also provide for the payment of medical expenses for persons injured by accident while occupying said taxicab or taxicabs or entering or alighting from the same or being struck by such taxicabs in the amount of at least \$5,000.00 for each person and \$10,000.00 for two or more persons incurring such medical expenses in one accident.

The insurance policy required by this section shall contain a provision that it shall not be cancelled except at least 20 days after written notice has been given by the insurer to both the insured and the city recorder for the City of Lenoir City.

9-405. Violations. Any owner who allows his taxicabs to be operated upon the streets of the City of Lenoir City without having first complied with this chapter and any taxicab operator who operates a taxicab upon the streets of the City of Lenoir City without having in his possession the permit required herein, shall be guilty of a misdemeanor.

## CHAPTER 4

TAXICABS

## SECTION

- 9-401. Taxicab franchise permit required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.
- 9-417. Designation of taxicabs.

9-401. Taxicab franchise permit required. It shall be unlawful for any person, firm, or corporation to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City of Lenoir City, without having first obtained a taxicab franchise permit from the municipality and a current effective business license.

9-402. Requirements as to application and hearing. (1) No person shall be eligible to apply for a taxicab franchise if he has been convicted of a felony within the last ten (10) years. All applications for a taxicab franchise shall be made upon a regular form provided for that purpose, which application shall include the name and address of the applicant; the name and address of the proposed place of business; the make, model, vehicle identification number (VIN), and license number of all vehicles proposed to be used in the business; method and style of marking of vehicles; experience of the applicant in the transportation of passengers; certification of the mechanical reliability and cleanliness of the vehicles; certification of liability insurance; and such other pertinent information as may be required on said form, which application shall be sworn to by the applicant and verified by the affidavits of two (2) reputable citizens of the State of Tennessee who are acquainted with the applicant, and said application shall be filed with the recorder.

The recorder shall present the application to the city council with the recommendation of the city administrator to either grant or refuse a franchise to the applicant. The city council after notice thereof is published one (1) time in a local newspaper at least five (5) days prior to the public hearing, shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise may be heard. In deciding whether or not to grant the franchise, the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such taxicab franchise. Notice and a public hearing shall not be required for a renewal application for a taxicab franchise.

(2) No taxicab franchise permits shall be issued for a longer period than one (1) year. The city council may issue a permit for a shorter or probationary period if, in its discretion, it deems proper.

(3) All franchises heretofore issued by the City of Lenoir City shall expire on the 15th day of July, 1997; and in order to obtain a renewal taxicab permit on or before the 30th day of June, 1997, a renewal application shall be filed by the holder of each such taxicab permit; and thereafter such taxicab permits and those hereafter issued shall upon timely and proper application be renewed or other appropriate action taken on or before the 15th day of July in each and every year.

(4) The chief of police shall have authority to issue administrative regulations which are not in conflict with this chapter governing the use and operations of taxicabs.

9-403. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy approved by the recorder for all vehicles authorized in the amount of not less than \$130,000.00 for injury to or death of any one person, and \$350,000.00 for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of \$50,000.00 in one occurrence, and a copy of the policy to be on file with the recorder. The insurance policy required by this section shall contain a provision that it shall not be canceled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality.

9-404. Revocation or suspension of franchise. The city council, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver.

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of Lenoir City unless such taxicab is

equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. All applications for a taxicab permit shall contain a certificate by the owner that the vehicles will be kept in a condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab.

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall at all times be kept in a reasonably clean and sanitary condition.

9-407. Inspection of vehicles. (1) All taxicabs shall be inspected at least annually to ensure that they comply with the requirements of this chapter. The chief of police will designate the date, time, and by whom the inspections shall be made. The cost of inspections shall be borne by the permit holders.

(2) A police officer is authorized by this chapter to stop a taxicab operating on the streets of Lenoir City when the mechanical appearance of the vehicle so warrants and to inspect said vehicle for compliance with this chapter. If said officer finds the vehicle to be in noncompliance with this chapter, he shall cite the owner and declare the taxicab inoperable, not to operate on streets of Lenoir City until evidence of inspection as provided in 9-407(1) is provided to the chief of police and all defects have been corrected.

9-408. License and permit required for drivers. (1) No person shall drive a taxicab unless he is in possession of a state special chauffeur's license, and a taxicab driver's permit issued by the city recorder.

(2) No driver's permit shall be issued for a longer period than one (1) year. Said driver's permit will be renewable with the franchise date as provided in 9-402(3).

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following qualifications:

(1) Makes written application to the recorder on forms provided for that purpose, which are to be reviewed and recommended by the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Certifies they are of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses within the ten (10) years immediately preceding the date of application for the driver's permit.

(7) Is familiar with the state and local traffic laws.

All credentials required are to be in possession of the driver while operating a taxicab in the City of Lenoir City. A fee of \$3.00 will be charged for each driver's permit that is issued.

9-410. Revocation or suspension of driver's permit. The city council may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter or when the driver ceases to possess the qualifications as prescribed in section 9-409, or upon recommendation by the chief of police.

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs.

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not unreasonably to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished.

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route.

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose.

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the municipality in any way.

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger.

9-417. Designation of taxicabs. Each taxicab shall bear on the outside of each front door an identifying company name, and the word "taxicab" if not part of the company name. The marking shall be of sufficient size to be clearly visible.