

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. CABLE TELEVISION.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. Certain business prohibited on Sunday.
9-102. "Going out of business" sales.

9-101. Certain business prohibited on Sunday. It shall be unlawful for any person, firm, corporation, or association operating a general merchandise store, department store, hardware, jewelry, or furniture store, or other similar establishments in the municipality, to open such place or business on Sunday; or to sell or offer for sale, give away, or deliver any merchandise, hardware, jewelry, furniture, or other similar commodities or articles, on Sunday. (1982 Code, § 5-101)

9-102. "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. (1982 Code, § 5-102)

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHATTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Use of streets.
- 9-208. Exhibition of permit.
- 9-209. Policemen to enforce.
- 9-210. Revocation or suspension of permit.
- 9-211. Reapplication.
- 9-212. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit 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. (1982 Code, § 5-201)

9-202. 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. (1982 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the town 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.

¹Municipal code references
Privilege taxes: title 5.

(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 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 and, if so, 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 of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1982 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be investigated by the town recorder within seventy-two (72) hours.

(2) If as a result of such investigation the applicant's moral reputation and/or business responsibility is found to be unsatisfactory the town recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the report indicates that the moral reputation and business responsibility of the applicant are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by section 9-206. The town recorder shall keep a permanent record of all permits issued. (1982 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the town 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. (1982 Code, § 5-205)

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the municipality 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 this municipality 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 municipality 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 municipality 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. (1982 Code, § 5-206)

9-207. 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 such operation might impede or inconvenience the public use of such streets. However, nothing contained in this section shall restrict the use of the area available for parking or stopping by the public, which area lies north of the present business district, provided space is available in said area and the parking or stopping is at such locations as may be designated by an on-duty police officer on each day that the parking or stopping is desired by the peddler or itinerant or transient merchant. (1982 Code, § 5-207)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1982 Code, § 5-208)

9-209. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1982 Code, § 5-209)

9-210. 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 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 town 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 may suspend a permit pending the revocation hearing. (1982 Code, § 5-210)

9-211. 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. (1982 Code, § 5-211)

9-212. 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. (1982 Code, § 5-212)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the town recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1982 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1982 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1982 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1982 Code, § 5-304)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license 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.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1982 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make a recommendation

¹Municipal code reference
Privilege taxes: title 5.

to either grant or refuse a franchise to the applicant. The board shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board 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 an additional franchise. (1982 Code, § 5-402)

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 for each vehicle authorized in the amount of fifty thousand dollars (\$50,000.00) for bodily injury or death to any one person, one hundred thousand dollars (\$100,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and ten thousand dollars (\$10,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1982 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, 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. (1982 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab within the municipality unless it shall conform to all safety and other requirements of state 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. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1982 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1982 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the

requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1982 Code, § 5-407)

9-408. License and permit required for drivers. 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 police department. (1982 Code, § 5-408)

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

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

(2) Undergoes an examination by a physician and is found to be 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.

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

(4) 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.

(5) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(6) Is familiar with the state and local traffic laws. (1982 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, 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 § 9-409. (1982 Code, § 5-410)

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. (1982 Code, § 5-411)

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 to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1982 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1982 Code, § 5-413)

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. (1982 Code, § 5-414)

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 blow the automobile horn unnecessarily; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1982 Code, § 5-415)

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. (1982 Code, § 5-416)

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. Newbern cable television ordinance.

9-501. Newbern cable television ordinance. Cable television service shall be regulated by the "Newbern Cable Television Ordinance," and any amendments thereto.¹

¹The "Newbern Cable Television Ordinance," and any amendments thereto, are published as separate documents and are on file in the recorder's office.

CHAPTER 6

CONTRACTORS

SECTION

- 9-601. License required.
- 9-602. Application required.
- 9-603. Surety bond required.
- 9-604. Use of license by another.
- 9-605. Exemptions.

9-601. License required. Each person, firm, partnership or corporation engaged in the business of contracting or subcontracting for construction, re-construction, alteration, improvement or demolition of buildings must have a license and shall pay all applicable privilege taxes before being issued a license. Such license shall be issued for a twelve (12) month period. (1982 Code, § 5-601)

9-602. Application required. No license shall be issued except upon written and signed application containing a covenant agreeing to full compliance with all city building codes and ordinances as a condition to the granting of the license. (1982 Code, § 5-602)

9-603. Surety bond required. No application for a contractor's license shall be acted upon until a performance bond, executed by a surety company duly authorized to do business in this state, has been filed with the recorder, for the protection of the municipality and/or any aggrieved or damaged citizen. If natural gas installations or gas appliance installations are included in the license, the amount of surety bond shall be \$25,000.00. If gas and gas appliance installations are excluded, the amount of such bond shall be \$2,000.00. (1982 Code, § 5-603)

9-604. Use of license by another. It shall be a misdemeanor to permit anyone other than bona fide fulltime employees of the licensee to perform work under a contractor's license. (1982 Code, § 5-604)

9-605. Exemptions. Nothing in this chapter shall be construed as requiring an individual to procure a license to perform work upon property owned by him and done for his own use and occupancy. This exemption does not relieve, however, the requirement to obtain building permits and to fully comply with all codes. (1982 Code, § 5-605)