

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 9-101. "Going out of business" sales.
9-102. Hours regulated.

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to 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. (1995 Code, § 9-101)

9-102. Hours regulated. Pool halls, pawnbrokers, auction houses or establishments for adult entertainment shall close at or before 11:00 P.M. and shall remain closed until 6:00 A.M. No business shall be carried on between those hours. (1995 Code, § 9-102)

¹Municipal 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.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. 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) "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, 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:

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

(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 Greene 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"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to

¹State 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 novelty items and similar goods in the area of the festival or parade.

9-202. 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.

9-203. 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.

9-204. 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.

9-205. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the 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.

9-206. 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.

9-207. 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.

9-208. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, 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.

9-209. 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.

9-210. 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 under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

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.
- 9-305. Trespassing.
- 9-306. Violations.

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 city 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 exclusively among the members thereof, 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. (1995 Code, § 9-301)

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 or enterprise.

(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. (1995 Code, § 9-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of commissioners if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1995 Code, § 9-303)

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. (1995 Code, § 9-304)

9-305. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1995 Code, § 9-305)

9-306. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided in the general penalty clause for this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1995 Code, § 9-306)

CHAPTER 4

POOL ROOMS¹

SECTION

- 9-401. Pool rooms subject to regulation.
- 9-402. "Pool room" defined.
- 9-403. Application for and conditions upon which permit is allowed.
- 9-404. Application to be public record; effect of false statements.
- 9-405. Issuance of permit and license.
- 9-406. Permit good for one year but not transferrable.
- 9-407. Compliance with statements in application required.
- 9-408. Suspension or revocation of permit.
- 9-409. Violations.

9-401. Pool rooms subject to regulation. The business of operating pool rooms within the corporate limits of the City of Tusculum, Tennessee, shall be subject to the regulations hereinafter set out and provided. (1995 Code, § 9-401)

9-402. "Pool room" defined. A "pool room" is any place or premises upon or in which billiard tables, pool tables, bagatelle tables, or similar tables are kept for public use or hire. (1995 Code, § 9-402)

9-403. Application for and conditions upon which permit is allowed. All persons, firms, corporations, or associations who shall desire to engage in the business of operating a pool room shall apply in writing to the board of commissioners, under oath and on a form prescribed by it, for a permit thereafter to engage in the business of operating a pool room within the City of Tusculum. The application shall contain statements of the following, which shall be conditions upon which the permit is granted and allowed to continue in force:

(1) That if the applicant is a corporation, it is authorized to do business within the State of Tennessee.

(2) That neither the applicant nor any person or persons employed by him or it in such business of operating a pool room has been convicted of any violation of the laws of Tennessee or any crime involving moral turpitude within the past ten (10) years.

(3) That no person under eighteen (18) years of age shall be permitted or allowed to be in or to loiter around the place of business in which the business of conducting the pool room is carried on.

¹Municipal code reference
Privilege taxes: title 5.

(4) That no sale, distribution, or consumption of any alcoholic beverages will be permitted upon the premises in which the business of conducting a pool room is carried on.

(5) That proper sanitary facilities shall be provided upon the premises.

(6) The applicant has a suitable location to conduct the place of business.

(7) That in the place of business, no loud, unusual, or obnoxious noises shall be allowed, and that the applicant shall conduct such place of business otherwise in an orderly, peaceable, and lawful manner.

(8) The applicant shall state specifically whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, or association, and shall also state specifically the name of the owner or owners of the business. (1995 Code, § 9-403, modified)

9-404. Application to be public record; effect of false statements.

The application shall at all times be kept on file by the board of commissioners and shall be open to inspection by the general public. Any person, firm, corporation, or association making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1995 Code, § 9-404)

9-405. Issuance of permit and license. When an application has been submitted to the board, it shall be carefully examined by the board and a record of its action thereon shall be kept in writing as a part of the regular proceedings of the board. Upon favorable action by the board on an application, a permit shall be issued to the applicant. The permit thus obtained shall entitle the applicant to obtain from the recorder of the City of Tusculum a license to engage in the business of operating a pool room. However, no license shall be issued by the recorder until the privilege tax is paid and the permit has been filed with the recorder. (1995 Code, § 9-405)

9-406. Permit good for one year but not transferrable. The permit thus obtained shall remain in full force and effect for a period of one (1) year from the date of issuance unless the owner shall sooner transfer the title of ownership of his business to another person, firm, or corporation, or shall sooner move the site or location of his business to a new location. Upon the happening of either event, the permit shall terminate and be of no further force and effect. Also, the permit may be terminated and cancelled by the board for any violation of the provisions of this chapter in the manner as hereinafter set out and provided. (1995 Code, § 9-406)

9-407. Compliance with statements in application required. No permit to operate a pool room shall be granted to any person, firm, corporation, or association, nor shall any license be allowed to continue in force unless the applicant or licensee shall comply with all of the statements made in the application, the provisions of this chapter, and the applicable statutes of the State of Tennessee. (1995 Code, § 9-407)

9-408. Suspension or revocation of permit. Any failure to comply with this chapter shall constitute sufficient grounds for the suspension or revocation of a pool room permit by the board of commissioners.

Complaints brought for the purpose of suspending or revoking a permit issued pursuant to the provisions of this chapter shall be made in writing and filed with the mayor, who shall thereupon give or cause to be given regular notice, accompanied by a copy of the written complaint, commanding the person, firm, corporation, or association so charged to appear at a time and place designated in the notice before the board of commissioners to show cause why his permit should not be suspended or revoked. The notice shall be served either by registered letter or by a policeman of the City of Tusculum at least ten (10) days prior to the date of the hearing when such person, firm, corporation, or association is required to appear. Upon the hearing, the board shall publicly hear and determine the nature and merits of the complaint and for this purpose the mayor is authorized to compel the attendance of witnesses by subpoena. After such hearing, the board may for proper cause suspend or revoke the permit. (1995 Code, § 9-408)

9-409. Violations. It is hereby declared to be a misdemeanor for any person, firm, corporation, or association to violate the provisions of this chapter or to engage in the business of operating a pool room within the corporate limits of the City of Tusculum without having obtained a permit and license as herein provided. (1995 Code, § 9-409)

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of Tusculum and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the City of Tusculum and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ords. #90-1, Feb. 1990, and #03-2, Oct. 2003, in the office of the city recorder.