

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. CABLE TELEVISION.
4. FARMERS MARKET.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
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- 9-107. Display of permit.
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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 town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

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.

Trespass by peddlers, etc.: § 11-601.

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 town 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

(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" organization for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Bledsoe 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 town, 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

¹State law reference

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, § 67-4-709(a) (19). 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 town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1988 Code, § 5-101)

9-102. Exemptions. The terms of this chapter shall not 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. (1988 Code, § 5-102)

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 town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1988 Code, § 5-103)

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the town 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 town.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or

solicitation, 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 town recorder, the town recorder shall submit to the chief of police a copy of the application form and the permit. (1988 Code, § 5-104)

9-105. 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 town.

(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 town.

(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. (1988 Code, § 5-105)

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. (1988 Code, § 5-106)

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. (1988 Code, § 5-107)

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 town 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 mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, 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 town 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. (1988 Code, § 5-108)

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 town. 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. (1988 Code, § 5-109)

9-110. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provision of this municipal code of ordinances. (1988 Code, § 5-110)

CHAPTER 2

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Permit conditions.
- 9-206. Hours of operation.
- 9-207. Exceptions.
- 9-208. Display of sale property.
- 9-209. Display of permit.
- 9-210. Advertising; signs.
- 9-211. Persons exempted from chapter.
- 9-212. Penalty.

9-201. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names 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. (1988 Code, § 5-201)

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (1988 Code, § 5-202)

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

9-203. Permit required. No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the town recorder. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location. (1988 Code, § 5-203)

9-204. Permit procedure. (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the town recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed garage sale is to be held.
- (c) The date or dates upon which the sale shall be held.
- (d) The date or dates of any other garage sales by the same applicant or applicants within the current calendar year.
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.
- (f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the town recorder shall issue a permit. (1988 Code, § 5-204)

9-205. Permit conditions. The permit shall set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year. (1988 Code, § 5-205)

9-206. Hours of operation. Such garage sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. of three (3) consecutive days or two (2) consecutive weekends (Saturday and Sunday). (1988 Code, § 5-206)

9-207. Exceptions. (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the town recorder shall issue another permit to the applicant for a garage sale to be

conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the town recorder. (1988 Code, § 5-207)

9-208. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (1988 Code, § 5-208)

9-209. Display of permit. Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any town official. (1988 Code, § 5-209)

9-210. Advertising; signs. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or nonresidential site where the garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owners on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (1988 Code, § 5-210)

9-211. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Pikeville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in

which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (1988 Code, § 5-211)

9-212. Penalty. Any person found guilty of violating the terms of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances. (1988 Code, § 5-212)

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 Town of Pikeville and its inhabitants under franchise granted to Bledsoe Telephone Cooperative by the board of mayor and aldermen of the Town of Pikeville, Tennessee. The rights, powers, duties and obligations of the Town of Pikeville and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #_____ dated _____ in the office of the city recorder.

CHAPTER 4

FARMERS MARKET

SECTION

- 9-401. Establishment and bounds of the farmers market.
- 9-402. Who may use the farmers market.
- 9-403. Hours of the farmers market.
- 9-404. Hucksters, peddlers, etc. shall not use the farmers market.
- 9-405. Parking space and traffic flow to be designated.
- 9-406. Health regulations.
- 9-407. Hold harmless and indemnification.
- 9-408. Sales tax and licenses.
- 9-409. Permit required.
- 9-410. Permit expiration; renewal; suspension; revocation.
- 9-411. Cleanup.
- 9-412. Miscellaneous.

9-401. Establishment and bounds of the farmers market. (1) There is hereby established within the city limits of the City of Pikeville, Tennessee, a farmers market. The farmers market is hereby located on Cumberland Avenue. However, the Board of Mayor and Aldermen for the City of Pikeville, Tennessee, may change the location of the farmers market from time to time by resolution of the governing body of the City of Pikeville.

(2) The purpose of establishing a farmers market is to provide a safe and convenient place for farmers to sell their produce and citizens to make their purchases safely and without impeding the flow of traffic on and about Spring Street and the Bledsoe County Courthouse and to local businesses and government offices. (as added by Ord. #7A-28-014, Sept. 2014)

9-402. Who may use the farmers market. The privilege of using the farmers market may be extended to vendors for the purpose of selling, offering for sale, or exposing for sale, produce, vegetables, fruits, plants, and any other product of farm and garden, other than live animals, but including canned goods, grown in the State of Tennessee, during its appropriate growing season by farmers, truck growers, fruit growers, and horticulturists who are citizens and residents of the State of Tennessee. (as added by Ord. #7A-28-014, Sept. 2014)

9-403. Hours of the farmers market. (1) The hours during which the farmers market may be occupied and used by those whom the privilege of such use is extended are Monday through Sunday from daylight to dusk, but not be operated after 9:00 P.M. CST in any circumstances.

(2) No empty or partially loaded or loaded vehicle, trailer, etc., shall be allowed to occupy a portion of the farmers market for the purpose of preempting a position thereon. Further, no vehicle, trailer, awning, etc. shall remain on the premises after the hour of 9:00 P.M. CST. Vehicles and trailers, etc. found to be in violation of this provision shall be towed at the owner's expense.

(3) No vehicle shall be parked or exposed upon the farmers market for the purpose of selling that vehicle. Vehicles found to be in violation of this provision shall be towed at the owner's expense. (as added by Ord. #7A-28-014, Sept. 2014)

9-404. Hucksters, peddlers, etc. shall not use the farmers market.

It shall be unlawful for any huckster, peddler, operator of a rolling store, or any other person that one to whom the privilege has been extended under the provisions of this chapter to come upon or to take any position upon the area of the farmers market at any time for the purpose of selling, offering for sale, or exposing for sale any fruits, vegetables, produce, canned items, meats, or any other article or item whatsoever. (as added by Ord. #7A-28-014, Sept. 2014)

9-405. Parking space and traffic flow to be designated. Parking spaces and traffic lanes shall be marked as such. It shall be unlawful for any person to park a vehicle in other than a designated parking space and it shall also be unlawful to obstruct areas designated for traffic flow. (as added by Ord. #7A-28-014, Sept. 2014)

9-406. Health regulations. All participants/vendors in the farmers market shall comply with all federal, state and local health rules and regulations. (as added by Ord. #7A-28-014, Sept. 2014)

9-407. Hold harmless and indemnification. All vendors participating in the farmers market shall be individually and severely responsible to the City of Pikeville, Tennessee for any loss, personal injury, deaths, personal damage and/or loss, and/or any other damages, and/or any other damage that may occur as a result of the vendor's negligence or that of its servants, agents, and employees, and all vendors hereby agree to indemnify and save the City of Pikeville harmless from any loss, cost, damages, and any and all other expenses and costs, including but not limited to, attorney fees and court costs, suffered or incurred by the City of Pikeville by reason of the vendor's negligence or that of its servants, agents, and employees; provided that the vendors shall not be responsible or required to indemnify the City of Pikeville, Tennessee for negligence of the City of Pikeville, Tennessee, its servants, agents, and employees. No insurance is provided to participants and vendors in the farmers market and each vendor and participant will need to obtain his/her own liability insurance. (as added by Ord. #7A-28-014, Sept. 2014)

9-408. Sales tax and licenses. Each vendor is responsible for collecting his/her own sales taxes, where it is applicable. Further, each vendor is responsible for obtaining any and all license and permits required by federal, state and local law, where applicable. (as added by Ord. #7A-28-014, Sept. 2014)

9-409. Permit required. (1) Every person who is privileged to occupy and use the farmers market for selling, offering for sale, or exposing for sale the articles that may be sold thereon shall first before going upon the farmers market make an application for a permit at the city hall (municipal building) for the City of Pikeville located at 47 West City Hall in Pikeville, Tennessee, in writing and upon a farmers market application form being completed, the applicant must file the application with the City of Pikeville, with the contents of said application to be subscribed and sworn to by the applicant. Additionally, each applicant shall pay a five dollar (\$5.00) application fee prior to permit being issued. The permit shall be carried by the person to whom it has been issued to at all times while the person is present on the farmers market. It shall be unlawful for any person to whom a permit has not been issued to go upon and occupy any space of the farmers market for the purpose of selling thereon.

(2) No holder of a permit shall allow any person other than himself/herself or the persons stated on the application to have or use the permit for the purpose of occupying a space and selling on the farmers market.

(3) It shall be unlawful for any person to make, use, have in his/her possession, or exhibit any false or counterfeit permit.

(4) The making of an application for a permit and the issuance of a permit to any bona fide farmer, grower, horticulturist, or other person under this chapter who is a citizen and resident of the State of Tennessee shall not entitle the holder to use any particular space thereon to such holder of a permit. The provisions of this chapter are designed to prevent the preemption of any particular space by any permittee and to secure sanitary conditions of use and occupation of the farmers market by those to whom the privilege is extended. The requirements as to application for and issuance of permits are designed to keep the use of the farmers market for those only to whom the privilege of use has been extended by the provisions of this chapter. (as added by Ord. #7A-28-014, Sept. 2014)

9-410. Permit expiration; renewal; suspension; or revocation. A permit issued pursuant to this chapter shall be valid for the calendar year in which the permit is issued, with permits expiring each December 31 of every year.

A permit may be suspended or revoked by the Codes Enforcement Officer for the City of Pikeville when the provisions of the chapter have been violated. Upon being notified of an alleged violation of this chapter, the codes enforcement officer shall investigate the complaint. Any person found to have violated the provisions of this chapter shall receive at least a written warning initially, but

may, depending on the severity of the violation, have his/her permit suspended or revoked for a period not to exceed one (1) year. However, in the event an offender has been found to have violated the provisions of this chapter on three (3) or more occasions within any twelve (12) month period, the offender shall have his permit suspended or revoked for a period of one (1) year. Said offender may apply for a permit at the expiration of the one (1) year revocation period. Persons who have had their permit suspended or revoked for violations of this chapter may appeal the decision to the city mayor in writing within fifteen (15) days from the time their privileges were revoked. The city mayor shall investigate the matter and render a decision in writing. Any appeal to the city mayor's decision shall be made to the board of mayor and aldermen and directed to the recorder in writing within thirty (30) days from the date of the city mayor's decision. (as added by Ord. #7A-28-014, Sept. 2014)

9-411. Cleanup. All vendors shall clean up their areas at the end of each day. Vendors shall be responsible for the cleanliness of their selling areas. All vendors agree to keep the farmers market free of any trash and debris generated by the market activity. Any vendor found to be in violation of this section may have his/her permit suspended or revoked and shall be responsible for the costs of cleanup incurred by the City of Pikeville. (as added by Ord. #7A-28-014, Sept. 2014)

9-412. Miscellaneous. No firearms and alcoholic beverages are permitted at or on the farmers market. (as added by Ord. #7A-28-014, Sept. 2014)