

PEDDLER-SOLICITORS, ETC.

Title 9, Chapter 2, Lakesite Municipal Code

Peddler, Solicitor or Transient Vendor-\$50.00 Street Barker-\$25.00

PLEASE PRINT

FAILURE TO PROPERLY FILL OUT THIS FORM MAY RESULT IN DELAYS IN THE GRANTING OF YOUR LICENSE.

You must attach copies of State approvals and or permits that are required for your business, including an exemption certificate from the IRS, if applicable. Please fill in all blanks.

Peddler Solicitor Street Barker Transient Vendor
 Non Profit

Name of Business _____

Name of Applicant _____

Date of Birth _____ SSN _____ /EIN No. _____

Hair Color _____ Eye Color _____ Height _____ Weight _____

Business Address _____

Mailing Address _____

Business Phone _____ Home Phone _____

E-Mail Address _____ Business Website _____

Hours of Operation _____ Days _____

Additional information required per Title 9 of the City Municipal Code:

- If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.
- A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years; the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

- The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religious or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under (b) above in those cities, towns or other political subdivisions.
- Two photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring two inches by two inches, and showing the head and shoulders of the applicant in a clear distinguishing manner.
- A brief description of the type of business and the goods to be sold or in the case of solicitors for charitable or religious purposes, the function of the organization.
- The dates for which the applicant intends to do business or make solicitations.
- The make, model, complete description, and license tag number and state of issue, of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.
- Tennessee state sales tax number, if applicable.

I hereby certify that the information contained herein is complete, accurate and truthful to the best of my knowledge.

Signature of Applicant

Date Paid _____ Check Number _____ Date Issued _____

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required; eligibility.
- 9-204. Permit procedure.
- 9-205. Business license required.
- 9-206. Restrictions on permit holders in general.
- 9-207. Additional restrictions on transient vendors.
- 9-208. Display of permit, business license, etc.
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- 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 who individually or as an agent or employee of any firm, corporation, or organization, who has no permanent regular place of business and who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from 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 who individually or as an agent or employee of any firm, corporation or organization, who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from 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 as that term is defined below.

(3) "Solicitor for charitable or religious purposes" means any person who individually or as an agent or employee of any firm, corporation or organization who goes from dwelling to dwelling 'Without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, soliciting contributions from the public 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 person, firm, corporation or organization shall qualify as a solicitor for charitable or religious purposes unless it meets one of the following conditions:

- (a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501 (cX3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or a similar "umbrella" organization for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Hamilton County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Street barker" means a person who engages in the business or conduct as a peddler individually or as an agent or employee of any firm, corporation or organization 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.

(5) "Transient vendor"¹ means any person who individually or as an agent or employee of any firm) corporation or organization 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 business or 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 I and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building 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. (as added by Ord. #147, Oct. 2004)

9-202. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business, or to persons selling agricultural

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, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay 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).

products, who themselves produced the products being sold. (as added by Ord. #147, Oct. 2004)

9-203. Permit required; eligibility. It is the intent of this section to treat each person, and each firm, corporation and organization, and each agent for same, and each person who as an employee or who in any other capacity for such firm, corporation or organization, is covered by this chapter, as a separate person for the purposes of investigation and payment of the permit fee.

Individuals, firms, corporations and organizations are eligible for a permit under this chapter. Persons applying for an individual permit under this chapter shall complete an application on forms provided by the city, and pay the permit fee. Agents applying for a permit for a firm, corporation, or organization under this chapter shall complete a separate application and pay a separate permit fee for the firm, corporation or organization, and the agent, and for each individual who as an employee of, or in any other capacity for, the firm, corporation or organization, will engage in the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor, or street barker.

Representatives of established youth programs, such as boy and girl scouts, and students of public and private elementary and high schools located in Hamilton County shall not be required to obtain a permit to sell goods or solicit donations to support activities of their organizations. The permit fee may be waived for other organizations upon presentation of proof of affiliation with a nonprofit agency organized under Section 501c(3) of the federal tax code. (as added by Ord. #147, Oct. 2004)

9-204. Permit procedure. (1) Application form. The application shall be sworn to by the applicant, and shall contain:

(a) Name, date of birth, social security number or other identification number of the applicant, his or her physical description, and a copy of his or her driver's license.

(b) The following complete addresses and telephone numbers of the applicant:

- (i) Permanent
- (ii) Permanent business
- (iii) Local residential
- (iv) Local business

(c) If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.

(d) A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three

(3) years; the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(e) The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religious or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under (b) above in those cities, towns or other political subdivisions.

(f) Two photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring two inches by two inches, and showing the head and shoulders of the applicant in a clear distinguishing manner.

(g) A brief description of the type of business and the goods to be sold or in the case of solicitors for charitable or religious purposes, the function of the organization.

(h) The dates for which the applicant intends to do business or make solicitations.

(i) The make, model, complete description, and license tag number and state of issue, of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.

(j) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, solicitor, or transient vendor shall submit with his application a nonrefundable fee of fifty dollars (\$50.00). Each applicant for a permit as a street barker shall submit with his application a nonrefundable fee of twenty-five dollars (\$25.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Denial or approval of permit. (a) Investigation. Upon the receipt of the application and the payment of the permit fee, the city recorder or authorized designee shall make an investigation of the applicant for the protection of the public health, safety and general welfare of the public. The city recorder or authorized designee shall make a good faith effort to complete the investigation within three complete working days, excluding Saturdays, Sundays and holidays of the city. If the investigation is not complete within that period, the reasons shall be noted on the application. In no event shall the period of the investigation exceed ten (10) days.

(b) Denial of permit. The city recorder or authorized designee shall deny the applicant a permit if the investigation discloses that:

(i) The applicant has been convicted of a felony within the past ten (10) years or has been convicted of a misdemeanor

other than a minor traffic violation within the past three (3) years or

(ii) Any information in the application that is materially false or misleading; or

(iii) The business reputation of the applicant is such that the applicant constitutes a threat to the public health, safety or general welfare of the citizens of the city.

(iv) The information supplied in the application is insufficient to permit the city recorder or authorized designee to make a determination under (i), (ii) or (iii) above.

The application of a firm, corporation or organization may be rejected if the investigation discloses no information that would disqualify it for a permit where the investigation of the agent or a prospective peddler, solicitor, solicitor for charitable purposes, street barker or transient vendor for the firm, corporation or organization discloses information that disqualifies any of them for a permit.

The city recorder or authorized designee shall note on the application the specific reasons for the disapproval of the permit. A copy of the application containing the specific reasons for the disapproval shall be sent by United States mail to the applicant at the applicant's address shown on the application.

(c) Approval of permit. If the investigation discloses no grounds for the denial of the permit, the city recorder or authorized designee shall issue a permit to the applicant.

(d) Appeal of denial. The refusal of the city recorder or authorized designee to issue a permit may be appealed to the city manager. The aggrieved applicant may within ten (10) days following the date the notice of the refusal of the city recorder or authorized designee to issue a permit was mailed to the applicant appeal the refusal by giving the city manager written notice of appeal, stating the grounds for the appeal. The city manager shall set a hearing on the appeal for a date falling within ten days following the date of the receipt of the appeal. The decision of the city manager shall be final.

(4) The permit. The permit shall show the name of the permit holder and (if the permit holder is a firm, corporation or organization) the name of the solicitor, solicitor for charitable purposes, street barker or transient vendor, the kind of goods and/or services authorized to be sold, the amount of the permit fee paid, the date of issuance of the permit, and the period of the permit, and shall have attached a copy of a photograph of the permit holder.

(5) Expiration and renewal of permit. The permit of peddlers, solicitors, solicitors for religious and charitable purposes, and transient vendors shall expire sixty (60) days from the date of issue. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. (as added by Ord. #147, Oct. 2004)

9-205. Business license required. Each person, or each firm, corporation or organization issued a permit under this chapter as a peddler, solicitor, street barker or transient merchant shall be required to obtain a business license before soliciting or making sale. (as added by Ord. #147, Oct. 2004)

9-206. Restrictions on permit holders in general. No person while conducting the business or activity of peddler, street barker, solicitor, solicitor for charitable or religious purposes, transient vendor, or street barker 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; or

(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 or her business or merchandise or to his or her 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 or attempt to enter in or upon any residential or business premises wherein the authorized owner, occupant or person legally in charge of the premises has in a conspicuous place posted, at the entry to the premises, or at the entry to the principal building of the premises, a sign or placard in letters at least one inch high bearing the notice "Peddlers Prohibited," "Solicitors Prohibited," "Peddlers and Solicitors Prohibited," or similar language of the same import, is located.

(6) Enter in or upon any residential premises without prior invitation of the authorized owner, occupant or person legally in charge of the premises between sundown and 9:00 A.M. (as added by Ord. #147, Oct. 2004)

9-207. Additional restrictions on transient vendors. A transient vendor shall not:

(1) 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.

(2) Locate temporary premises as the term is defined in this chapter on or in any public street, highway or any other public way or place, or on private property without written permission of the property owner or other person in authorized control of the property. (as added by Ord. #147, Oct. 2004)

9-208. Display of permit, business license, etc. Each peddler, solicitor, and street barker is required to have in his possession a valid permit and business license, and each transient vendor is required to have in his possession a valid permit, business license, and the written permission of any private property owner or other person in control of the property owner from which he or she is conducting business, while making sales or solicitations, and all shall be required to display the same to any police officer upon demand. Solicitors for charitable and religious purposes shall be required to have in their possession a valid permit. (as added by Ord. #147, Oct. 2004)

9-209. Revocation of permit. (1) Causes. The permit issued to any person or to any firm, corporation or organization under this chapter may be revoked by the city manager for any of the following causes:

(a) Fraud, misrepresentation, or false or misleading statement contained in the application for a permit.

(b) Fraud, misrepresentation, or false or misleading statement made by the permit holder in the course of the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor or street barker.

(c) Any violation of this chapter.

(d) Any other conduct of the permit holder that constitutes a threat to the health, safety or general welfare of the citizens of the city.

(2) The notice of revocation. (a) City manager's option. The city manager shall have the option of revoking the permit effective immediately after notice, or effective after notice and hearing. However, the city manager shall revoke the permit effective immediately only after a written finding of the reasons that to delay the revocation of the permit would represent an intolerable threat to the health, safety or general welfare of the citizens of the city.

(b) Notice if the permit holder is a person. If the permit holder is a person, the city shall make a reasonable effort to personally deliver the notice of revocation effective to the permit holder. If the permit holder cannot be found after such reasonable effort, the notice shall be sent by registered or certified United States mail to the local residential or business address of the permit holder. If the permit holder has no local residential or business address the notice shall be sent to the permit holder's permanent address.

(c) Notice if the permit holder is a firm, corporation or organization. The personal notice provided for above may be given to the agent of the firm, corporation or organization, or to any employee or agent of the firm, corporation, or organization; otherwise, the notice procedure prescribed by (b) above shall apply where the permit holder is a firm, corporation or organization.

(d) Contents of notice and hearing. The notice shall set forth the specific grounds for revocation of the permit and shall set a hearing

on the revocation on a date falling not less than five (5) nor more than (10) days from the date of the notice.

(3) Hearing on the revocation. At the hearing on the revocation of the permit, the permit holder shall be entitled to respond to the charges against him or her and to be represented by counsel at his or her expense. The city manager's decision shall be final. (as added by Ord. #147, Oct. 2004)

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 by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense. (as added by Ord. #147, Oct. 2004)