

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. [Deleted.]
- 9-102. "Going out of business" sales.

9-101. [Deleted.] (Code of 1977, § 5-101, as deleted by Ord. #529, May 2006)

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. (Code of 1977, § 5-102)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Application for permit.
- 9-205. Issuance or refusal of permit.
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- 9-208. Hours of solicitation.
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- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Expiration and renewal of permit.
- 9-213. Violation and penalties.

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 town, 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 or educational 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 or educational 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" or "educational" organization unless the organization meets one (1) of the following conditions:

¹For privilege tax provisions, etc., see title 5 in this code.

(a) Has a current exemption certificate from 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 or educational organizations.

(c) Has been in continued existence as a charitable or religious or educational organization in McNairy 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) "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.

(6) "Transient vendor" 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. (1977 Code, § 5-201, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

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, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1977 Code, § 5-202, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vender; solicitor or street barker or solicitor for subscriptions within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. (1977 Code, § 5-203, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-204. 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 of the applicant and, in the case of transient merchants, the local address from which proposed sales would be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (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 inches (2") 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 properly 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; the nature of the offense; and, the punishment or penalty assessed thereof.
- (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 fifty dollars (\$50.00) shall be paid to the town to cover the cost of investigating the facts stated therein.
- (11) Tennessee state sales tax number, if applicable. (1977 Code, § 5-204, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-205. Issuance or refusal of permit. (1) Each applicant shall be referred to the chief of police for investigation. The chief shall report his findings to the town recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility 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 chief's report indicates that the moral reputation and/or business responsibility are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes. The town recorder shall keep a permanent record of all permits issued.

(4) In the event the permit is refused by the town recorder, the applicant may appeal the refusal to the board of mayor and aldermen. The town recorder shall mail to the address of the applicant a notification that the permit was refused. Said notice of refusal shall give notice to the applicant that they have a right to appeal the refusal to the board of mayor and aldermen. The applicant shall notify the town recorder within ten (10) days of the mailing of the notice of the intent to appeal the town recorder's decision. Upon notice of the intent by the applicant to appeal, the board of mayor and aldermen shall schedule a meeting to hear the appeal within ten (10) days. (1977 Code, § 5-205, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the Town of Selmer, upon private premises where sound of sufficient volume is emitted or produces therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purposes of attracting attention to any goods, wares, or merchandise, which such permittee proposes to sell. (1977 Code, § 5-206, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

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. For the purpose of this chapter, the judgment of a police officer, exercise in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1977 Code, § 5-207, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-208. Hours of solicitation. No permittee shall solicit money or other things of value, or to solicit the sale of goods or services before 8:00 A.M. and after 7:00 P.M. (1977 Code, § 5-208, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1977 Code, § 5-209, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1977 Code, § 210, as replaced by Ord. #528, May 2006, and Ord. #604, Sept. 2011)

9-211. 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 merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such 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 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/her 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 the hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1977 Code, § 5-211, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

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. (1977 Code, § 5-212, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

9-213. 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 under the general penalty provision of this code. (1977 Code, § 5-213, as deleted by Ord. #528, May 2006, and replaced by Ord. #604, Sept. 2011)

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 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. (Code of 1977, § 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 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. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 or bond 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 Town of Selmer and has a currently effective privilege license. (Code of 1977, § 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

¹For privilege tax provisions, etc., see title 5 in this code.

to either grant or refuse a franchise to the applicant. The board of mayor and aldermen 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 of mayor and aldermen 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 taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (Code of 1977, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in title 55, chapter 12, Tennessee Code Annotated. The insurance policy or bond 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 Town of Selmer. (Code of 1977, § 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. (Code of 1977, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the Town of Selmer unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. 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. (Code of 1977, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the Town of Selmer 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. (Code of 1977, § 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. (Code of 1977, § 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 chief of police. (Code of 1977, § 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 to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) 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.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the Town of Selmer who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent traffic offenses.
- (7) Is familiar with the state and local traffic laws. (Code of 1977, § 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 section 9-409. (Code of 1977, § 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 Town of Selmer for the purpose of obtaining patronage for their cabs. (Code of 1977, § 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 Town of Selmer 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 unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (Code of 1977, § 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. (Code of 1977, § 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. (Code of 1977, § 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 unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the Town of Selmer in any way. (Code of 1977, § 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. (Code of 1977, § 5-416)

CHAPTER 5

POOL ROOMS¹

SECTION

- 9-501. Prohibited in residential areas.
- 9-502. Hours of operation regulated.
- 9-503. Minors to be kept out; exception.
- 9-504. Gambling, etc., not to be allowed.
- 9-505. Definition of pool rooms.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (Code of 1977, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any pool room to open, maintain, conduct, or operate on Sunday or between the hours of 12:00 p.m. and 6:00 a.m. on other days. (Code of 1977, § 5-502, as replaced by Ord. #490, Feb. 2002)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (Code of 1977, § 5-503)

9-504. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire, to permit any gambling or other unlawful or immoral conduct on such premises. (Code of 1977, § 5-504)

¹For privilege tax provisions, etc., see title 5 in this code.

9-505. Definition of pool room. For the purposes of this section, a "pool room" is defined to be any commercial establishment that obtains fifty percent (50%) or more of its gross revenues from the ownership/operation of pool tables or billiard tables. Any commercial establishment that derives less than fifty percent (50%) of its gross revenues from the ownership/operation of pool tables or billiard tables is not subject to the regulatory requirements of this section. (as added by Ord. #490, Feb. 2002)

CHAPTER 6

CARNIVALS, CIRCUSES, MENAGERIES, ETC.

SECTION

9-601. Games of chance prohibited.

9-602. Obscene or offensive performances prohibited.

9-601. Games of chance prohibited. No carnival, circus, menagerie or tent show of any kind or nature whatsoever wherein are conducted any games of chance shall at any time be permitted to show within the corporate limits of the Town of Selmer. (Code of 1977, § 5-602)

9-602. Obscene or offensive performances prohibited. No carnival, circus, menagerie or tent show shall conduct, carry on, or permit to be held, conducted or carried on any exhibition or entertainment of any sort which is offensive to decency, or is adapted to incite vicious or lewd thoughts or acts, or which is lewd or obscene, or vulgar, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense; and it shall be unlawful for any person or persons to act, exhibit, show, or perform in, or cause to be enacted, exhibited, shown or performed, or in any way be concerned in the action, exhibition, showing, or performing of any indecent, lewd, obscene, immoral or blasphemous play, farce, opera, public exhibition, show, entertainment or any such performance of any kind whatsoever. (Code of 1977, § 5-603)

CHAPTER 7

PIN-BALL MACHINES

SECTION

9-701. Defined.

9-702. Privilege license required.

9-703. Unlawful to allow minors to play.

9-701. Defined. A pin-ball machine is defined to be any coin-operated game which shall have no reward other than the score attained for the particular game for which the particular coin has been deposited. (Code of 1977, § 5-701)

9-702. Privilege license required. It shall be unlawful for any person to maintain a pin-ball machine for operation in the Town of Selmer without first obtaining and displaying thereon a privilege license from the recorder. (Code of 1977, § 5-702)

9-703. Unlawful to allow minors to play. It shall be unlawful for any person maintaining a pin-ball machine to permit any person under the age of eighteen (18) years to play such machine. (Code of 1977, § 5-703)

CHAPTER 8

CABLE TELEVISION

SECTION

9-801. To be furnished under franchise.

9-801. To be furnished under franchise. Cable television shall be furnished to the Town of Selmer and its inhabitants under franchise granted to Cablevision Industries of Tennessee, L.P. by the board of mayor and aldermen of the Town of Selmer, Tennessee. The rights, powers, duties, and obligations of the Town of Selmer 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 ordinance no. 418 dated March 9, 1993, in the office of the city recorder.

CHAPTER 9

YARD SALES

SECTION

- 9-901. Definitions.
- 9-902. Property permitted to be sold.
- 9-903. Permit required.
- 9-904. Permit procedure.
- 9-905. Permit conditions.
- 9-906. Hours of operation.
- 9-907. Exceptions.
- 9-908. Display of sale property.
- 9-909. Display of permit.
- 9-910. Advertising.
- 9-911. Persons exempted from chapter.
- 9-912. Violations and penalty.

9-901. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Yard 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 ordinance, 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. (as added by Ord. #527, May 2006)

9-902. Properly 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. (as added by Ord. #527, May 2006)

9-903. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefore from the city recorder. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits

may be obtained for any nonresidential location. (as added by Ord. #527, May 2006)

9-904. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall notify the city recorder at least three (3) days in advance, either in person or by telephone, 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 yard 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 yard 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) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit number. (as added by Ord. #527, May 2006, and replaced by Ord. #570, April 2008)

9-905. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. A fourth yard sale may 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 city recorder.

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 and calendar year. (as added by Ord. #527, May 2006)

9-906. Hours of operation. Yard sales shall be limited to no more than three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (as added by Ord. #527, May 2006, as replaced by Ord. #570, April 2008)

9-907. Exceptions. If a yard 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 city recorder shall issue another permit to the applicant for a yard 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. (as added by Ord. #527, May 2006)

9-908. 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 yard 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. (as added by Ord. #527, May 2006)

9-909. Display of permit. Any permit in possession of the holder or holders of a yard sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #527, May 2006)

9-910. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending yard 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 yard sale is being conducted.

(b) Directional signs. Six (6) signs of not more than two (2) square feet each are permitted when 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 at the close of the yard sale activities. (as added by Ord. #527, May 2006, and replaced by Ord. #570, April 2008)

9-911. 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 Selmer, 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. (as added by Ord. #527, May 2006)

9-912. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code. (as added by Ord. #527, May 2006)