

ORDINANCE NO. 978

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST RIDGE, TENNESSEE, TO AMEND TITLE 9, CHAPTER 2, SECTIONS 9-201 THROUGH 9-210 REGARDING THE PERMIT FEE AND APPLICATION PROCESS FOR PEDDLERS, SOLICITORS, ETC.

WHEREAS, the City of East Ridge, Tennessee (the "City"), has established certain permit application procedures and fees in Title 9, Chapter 2, regarding peddlers, transient vendors, solicitors, street barkers, solicitors for charitable or religious purposes, and solicitors for subscriptions,

WHEREAS, the City now wishes to require that an additional copy of the permit be provided to all peddlers and solicitors in a form, such as a pin or lanyard, appropriate for display on their person,

WHEREAS, the City also wishes to require that the permit be visible and worn on the person of the peddler or solicitor at all times while making sales or solicitations,

WHEREAS, the City also wishes to require that all peddlers and solicitors be provided a magnet, sticker, or similar permit holder designation for display on the front driver-side door of any vehicle used by a peddler or solicitor at all times while making sales or solicitations,

WHEREAS, the City further wishes to increase the permit application fee to twenty-five dollars to offset costs associated with the visible permit, and require an additional fee of twenty-five dollars to offset the costs of providing a vehicle designation display,

NOW THEREFORE BE IT ORDAINED by the City Council of the City of East Ridge, Tennessee, that Title 9, Business, Peddlers, Solicitors, Etc., Chapter 2, Peddlers, Solicitors, Etc., is hereby deleted in its entirety and replaced with the following Title 9, Business, Peddlers, Solicitors, Etc., Chapter 2, Peddlers, Solicitors, Etc.:

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.

¹ Municipal code references
Privilege taxes: title 5.
Trespass by peddlers, etc.: § 11-501.

- 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:

(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 Hamilton 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"² 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

² State law references

Tennessee Code Annotated, § 62-30-101 et seq. contains permit requirements for "transitory vendors."

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 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, nor to persons who attempt to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular political party, political issue, or political candidate, even if the personal contact involves distribution of a handbill or flyer advertising the particular political party, political issue, or political candidate, or involves accepting the donation of money for or against the particular political party, political issue, or political candidate. (1993 Code, § 5-202, modified)

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 complied with the provisions of Section 9-204. (1993 Code, § 5-201 and § 5-301, modified)

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the City finance director or his/her

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).

For the purposes of this chapter, a "transient vendor" does not include a person who goes from dwelling to dwelling for the purpose of transporting and selling goods, wares or merchandise, and does not include a person who goes from dwelling to dwelling for the purpose of taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature.

designee 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) An identification photograph of the applicant, taken by the City finance director or his/her designee.

(c) A brief description of the type of business and the goods to be sold.

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

(e) The names and permanent addresses of each person who will make sales or solicitations within the City.

(f) 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.

(g) 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-five dollars (\$25.00). 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 City finance director or his/her designee shall issue a permit and provide a copy of the same to the applicant.

(4) Permit to be worn by peddlers and solicitors. After the issuance of the permit, an additional copy of the permit shall be provided to all peddlers and solicitors in a form, such as a pin or lanyard, appropriate for display on their person. This copy of the permit shall be visible and worn on the person of the peddler or solicitor at all times while making sales or solicitations. Furthermore, the peddler or solicitor must present the permit for inspection prior to making sales or solicitations. This subsection (4) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(5) Additional permit holder designation display; vehicle designation fee. In addition to subsections (2), (3) and (4) above, all peddlers and solicitors shall be provided with a magnet, sticker, or similar permit holder designation display designed by the City manager or his/her designee, and/or the chief of police or his/her designee. The permit holder designation display shall be placed on the front driver-side door of any vehicle used by a peddler or solicitor at all times while making sales or solicitations. All peddlers and solicitors shall pay a permit holder designation display fee of twenty-five dollars (\$25.00), regardless of whether they own or operate a vehicle. A designation display provided under this subsection shall expire and be renewed in the same manner as a permit under Section 9-209 below. The cost of a renewal designation display, and the cost of a replacement designation display in the event it is lost or stolen, shall be twenty-five dollars (\$25.00). This subsection (5) shall not apply to any transient vendor, street barker, solicitor for charitable purposes or solicitor for subscriptions.

(6) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the finance director, the City finance director shall submit to the chief of police a copy of the application form and the permit. (1993 Code, § 5-203, modified)

9-205. Restrictions on peddlers, street barkers, solicitors, solicitors for charitable purposes and solicitors for subscriptions. 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. In addition, each peddler, street barker and solicitor shall be required to abide by Sections 9-204(4) and (5).

9-208. Suspension or revocation of permit. (1) Suspension by the clerk. The permit issued to any person or organization under this chapter may be suspended by the finance director 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 City Council. The permit issued to any person or organization under this chapter may be suspended or revoked by the City Council, 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 finance director 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. (1993 Code, § 5-306, modified)

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. (1993 Code, § 5-213, modified)

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 five hundred dollars (\$500) for each offense. Each day a violation occurs shall constitute a separate offense.

BE IT FURTHER ORDAINED, that this Ordinance take effect immediately after its passage, the public welfare of the City requiring it.

Passed on First Reading July 24, 2014

Passed on Second Reading August 14, 2014

Brent Lambert
Brent Lambert, Mayor

ATTEST:

Andrew E. Hyatt
Andrew E. Hyatt, City Manager

APPROVED AS TO FORM:

Harold L. North, Jr.
Harold L. North, Jr., City Attorney