

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. GENERALLY.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. CHARITABLE ROADBLOCKS.
5. CABLE TELEVISION.

CHAPTER 1

GENERALLY

SECTION

9-101. "Going out of business" sales.

9-101. "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. (1983 Code, § 5-101)

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.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits of the Town of White Bluff without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1983 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable 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 bona fide charitable, religious, patriotic or philanthropic organizations. (1983 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code references
Privilege taxes: title 5.

- (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 (2) inches 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 evaluate properly the applicant's 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 therefor.
- (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 municipality to cover the cost of investigating the facts stated therein. (1983 Code, § 5-203, modified)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city 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 city 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 business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1983 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at

least five (5) days prior to the date set for hearing, or 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. (1983 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the Town of White Bluff and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the Town of White Bluff that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1983 Code, § 5-206)

9-207. 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 White Bluff or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1983 Code, § 5-207)

9-208. 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 the operation might impede or inconvenience the public use of such streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1983 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1983 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1983 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the town council 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 a 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 of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee 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.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1983 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1983 Code, § 5-212)

9-213. 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. (1983 Code, § 5-213)

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 within the Town of White Bluff without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1983 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall 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. (1983 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the town council if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1983 Code, § 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. (1983 Code, § 5-304)

CHAPTER 4

CHARITABLE ROADBLOCKS

SECTION

- 9-401. Definitions.
- 9-402. Eligibility.
- 9-403. Exemptions.
- 9-404. Restrictions.
- 9-405. Permits.
- 9-406. Records.
- 9-407. Identification.
- 9-408. Violations.

9-401. Definitions. As used in this chapter:

(1) "Charitable organization" means a group which is or holds itself out to be benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety.

(2) "Contributions" means the promise or grant of any money or property of any kind of value, including the payment or promise to pay in consideration of a sale, performance or show of any kind which is advertised or offered in conjunction with the name of any charity.

(3) "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for or on behalf of, a charitable organization.

(4) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(5) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic. (Ord. #214, Nov. 2001)

9-402. Eligibility. Charitable organizations desiring to conduct a solicitation roadblock shall be restricted to:

(1) Charitable organizations that have their principal headquarters and meeting place within the municipal boundaries of the Town of White Bluff; or

(2) Charitable organizations that are on file with the Internal Revenue Service as a Subchapter 501(c)3 organization. (Ord. #214, Nov. 2001)

9-403. Exemptions. The eligibility requirement stated in § 9-402(1) and (2) shall not apply to bona fide religious institutions, educational institutions, volunteer fire departments, rescue squads, non-profit athletic organizations, or local civil defense organizations. (Ord. #214, Nov. 2001)

9-404. Restrictions. Restrictions shall be as follows:

- (1) Only one (1) roadblock permit shall be issued per weekend.
- (2) Scheduling of roadblocks shall be based upon the order in which the permit applications are filed. No permit application shall be filed for more than sixty (60) days prior to the requested date.
- (3) No organization shall be awarded more than two (2) permits per year.
- (4) Roadblocks shall only be conducted at the intersection of Highway 47 North and Highway 70.
- (5) No one under the age of eighteen (18) shall be allowed to participate in a roadblock.
- (6) Roadblocks shall be limited to seven (7) active participants at any one time.
- (7) All participants shall be dressed in orange vests or similar attire or as an alternative, bright orange cones shall be strategically placed at the intersection to alert the public of the roadblock.
- (8) Roadblocks shall be limited to Saturdays or Sundays from 7:00 A.M. to 12:00 P.M.
- (9) All organizations shall clean up all litter generated by their fund raising activities. (Ord. #214, Nov. 2001)

9-405. Permits. Every charitable organization, which intends to solicit roadblock contributions within the Town of White Bluff, shall, prior to any solicitation:

- (1) File a registration statement with the Town of White Bluff Recorder. Any registration statement which contains false, misleading, deceptive or incomplete information or documentation shall not be considered sufficient or complete.
- (2) Any application who is denied approval of registration may have a reconstruction of its denial by requesting, in writing, a hearing before the town council. (Ord. #214, Nov. 2001)

9-406. Records. True and accurate fiscal records, including but not limited to, all income and expenses, shall be made available, upon request, to the Town of White Bluff. (Ord. #214, Nov. 2001)

9-407. Identification. It is the duty of every charitable organization to furnish identification to persons who solicit contributions from the public or on behalf of the charitable organization. The solicitor shall be required to have and

produce or display, on demand, identification indicating that the solicitor has been duly authorized by the organization for which the solicitor is soliciting. Such identification shall include, but not be limited to, the name of the holder of the identification and the name and the registration number of the charitable organization. (Ord. #214, Nov. 2001)

9-408. Violations. Any person violating this chapter shall be subject to punishment under the general penalty provision of the Town of White Bluff Municipal Code. (Ord. #214, Nov. 2001)

CHAPTER 5**CABLE TELEVISION****SECTION**

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the Town of White Bluff and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of White Bluff and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1983 Code, § 13-401)

¹For complete details relating to the cable television franchise agreement see Ordinance #61 and 61A, the latter of which transferred the franchise right from CET, Inc. to Galaxy Cablevision, Inc. and made other changes in the franchise agreement. Ordinance #93 transferred the license from Exxex 1985-2 Limited Partnership to U.S. Cable Television Group, L.P. All ordinances are of record in the office of the city recorder.