

ORDINANCE # 1313

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF ORDINANCES OF
THE CITY OF DICKSON, TENNESSEE, BY AMENDING CHAPTER 2 OF
TITLE 9**

Whereas, Title 9 of the Dickson Municipal Code of Ordinances regulates Businesses, Peddlers, and Solicitors, etc. of which Chapter 2 regulates Peddler activity;

Whereas, it has been identified that provisions pertaining to regulating produce vendors, transient vendors, and open-air flea markets should be added to Chapter 2;

Whereas, the Dickson Public Safety Committee has duly reviewed and recommended to the City Council that the Municipal Code of Ordinances of Dickson, Tennessee, be amended as hereinafter described; and

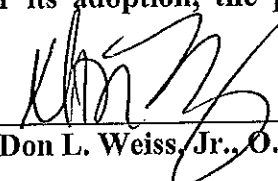
Whereas, the City Council has reviewed such recommendation and have conducted a public hearing thereon.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF DICKSON, TENNESSEE, AS FOLLOWS:**

That the Municipal Code of Ordinances of the City of Dickson, Tennessee, is hereby amended by deleting the entire chapter 2 of Title 9 in its entirety and replacing with a new Chapter 2, Peddlers, Etc., which reads as follows:


See *Exhibit 'A'* for new Chapter 2

This ordinance shall take effect from and after its adoption, the public welfare requiring it.



Don L. Weiss, Jr., O.D., MAYOR

ATTEST:



Dianne Shelton, CMC, RECORDER

Recommended by Public Safety Committee: December 11, 2011

Passed First Reading: February 4, 2013

Passed Second and Final Reading: March 4, 2013 As Amended

Exhibit 'A'

CHAPTER 2
PEDDLERS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Permit required.
- 9-203. Exemptions.
- 9-204. Application for permit.
- 9-205. Issuance or refusal of permit.
- 9-206. Appeal.
- 9-207. Bond.
- 9-208. Loud noises and speaking devices.
- 9-209. Use of streets.
- 9-210. Peddler/Transient Vendor/Open-Air Flea Market requirements.
- 9-211. Exhibition of permit.
- 9-212. Enforcement.
- 9-213. Revocation or suspension of permit.
- 9-214. Reapplication.
- 9-215. Expiration and renewal of permit.

9-201. Definitions. Unless otherwise expressly, stated, whenever used in this chapter, the following words shall have the meaning given to them in this chapter:

Goods, wares, or merchandise: shall mean all variety of merchandise items, whether handmade or manufactured, or services, whether personal or professional categorized as, but not necessarily limited to, souvenirs, gifts, prizes, art, school supplies, cloth, clothing or wearing apparel, toys, balloons, novelties, small appliances, works of art or crafts, directional information and/or charts, street photographers, tools or mechanical, devices of any nature.

Open-Air Flea Market: shall mean any location in which stalls or sales areas are established wherein individuals gather occasionally or periodically to offer goods, services, products, crafts, produce or surplus items for display and sale, trade, or barter.

Peddler: shall mean any person 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, and makes sales and delivery of merchandise or service concurrently and on the spot to a residential or commercial customer.

Produce Vendor: shall mean any person who operates a temporary open air stand or place for the selling of agriculture produce or any farm products. Such stand or place is portable and capable of being dismantled or removed from the sales site.

Solicitor: shall mean any person 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 whatsoever for future delivery.

¹ Municipal code reference
Privilege taxes: title 5.

Transient Vendor: shall mean 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. (see also Business Tax section in Title 5)

9-202. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient vendor to ply his trade within the corporate limits 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. (1980 Code, § 5-201)

9-203. 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. (1980 Code, § 5-202)

9-204. Application for permit. Applicants for a permit under this chapter must file with the tax office an application containing the following information:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address of applicant and the local address from which proposed sales will be made along with written permission from the property owner.
- (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 (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 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, and if so, the nature of the offense and the punishment or penalty assessed therefore.
- (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 vendors, the addresses from which such business was conducted in those municipalities.
- (10) At the time of filing the application, a fee of two hundred fifty dollars (\$250.00) shall be paid to the city to cover the cost of investigating the facts stated therein.
- (11) Each applicant shall submit to the tax office a copy of their State of Tennessee "certificate of registration" per state law, except for isolated or incidental sales. (1980 Code, § 5-203, as amended by Ord. #1117, June 2002)

9-205. 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 Treasurer 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 Treasurer 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 Treasurer shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by §

9-206. The City Treasurer shall keep a permanent record of all permits issued. (1980 Code, § 5-204)

9-206. Appeal. Any person aggrieved by the action of the chief of police and/or the City Treasurer in the denial of a permit shall have the right to appeal to the city council. 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. (1980 Code, § 5-205)

9-207. Bond. Every permittee shall file with the City Treasurer a surety bond running to the city in the amount of ten thousand dollars (\$10,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of Dickson and the statutes of the state regulating peddlers, canvassers, solicitors, transient vendors, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the City of Dickson 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 city 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. (1980 Code, § 5-206)

9-208. 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 city 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. (1980 Code, § 5-207)

9-209. 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 the 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. (1980 Code, § 5-208)

9-210. Peddler/Transient Vendor/Open-Air Flea Market requirements. All peddlers and transient vendors shall be allowed only within a permanently enclosed structure. No tables, crates, cartons, racks, or other devices shall be used outdoors to increase the selling or display capacity of the peddler or transient vendor outside the permanent enclosed structure. Produce vendors must sell and must locate within the current local farmer's market. Produce vendors shall make application and obey all guidelines set forth from the local Agriculture Board.

Open-Air Flea Markets are required to comply with the following development requirements:

- (1) The minimum lot size of a flea market shall be one (1) acre. All proposals for the location of a flea market shall require a one-time site plan approval from the City of Dickson Municipal Planning Commission, in accordance with all pertinent provisions of the Zoning Ordinance of Dickson, Tennessee.
- (2) The operator of any flea market that offers space for rent, outside of the confines of a permanent building, must apply and be granted an annual Flea Market Operators License by the City of Dickson, maintaining a current business license. The cost of this business license shall be twenty-five dollars (\$25.00) per year.
- (3) A building is considered permanent when it is built with approved building material and is constructed so that moving the building would deface the majority of the structure. Carports, transportable storage buildings, shipping containers and similar structures are not considered permanent buildings.
- (4) Off-road parking shall be furnished for customers and vendors, and consist of at least gravel surface.
- (5) Each booth shall be numbered as to assure that vendors within the flea market are registered. Operators shall maintain a list of all vendors' names, addresses, and contact information.
- (6) An accessible, adequate, safe, and potable water supply shall be provided.
- (7) There shall be permanent restroom facilities or portable toilets with separate facilities for men and women.
- (8) If a permanent self-contained restroom facility is available, then it must be connected to public sewer where available, and ability to provide hot and cold water.
- (9) All electrical wiring systems shall be inspected and approved by the appropriate governing jurisdiction.
- (10) All flea markets shall be maintained free of accumulations of debris, refuse and garbage. The area shall be kept clean from items or areas that would provide rodent infestation or breeding places for flies, mosquitoes and other pest or foul odors.
- (11) No overnight camping shall be allowed in any flea market site. Except during those days immediately prior to, during, and immediately following regularly scheduled flea market calendar days.
- (12) Any and all State or federal regulations that pertain to the collection, payment, and reporting of sales taxes shall apply.
- (13) Each flea market that offers outdoor space to others shall have a planned schedule showing which dates they will offer space for vendor set up. This schedule shall not exceed fifteen (15) calendar days per month. This calendar shall be available to the governing city officer upon request.
- (14) Any and all outdoor/temporary type-vendors shall be restricted to the normal scheduled flea market calendar. *Outdoor/temporary type-vendors are defined as any vendor who utilizes a tent, vehicle, trailer or such open-air display where the items being offered are plainly visible to the general public.*
- (15) Any flea market that is totally within the confines of a permanent structure, that meets the applicable requirements of this chapter and standard business and zoning codes of the City of Dickson shall not be limited to restrictions regarding the number of days per month nor be required to maintain a planned schedule.

- (16) Violation of these requirements shall be punishable by a fine of one hundred dollars (\$100.00) per each violation. Violation of this chapter more than twice within a 12 month period shall result in the revocation of the Flea Market Operator's License for a period of one year.

9-211. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1980 Code, § 5-209)

9-212. Enforcement. It shall be the duty of all policemen, and personnel from the tax office and codes enforcement office to see that the provisions of this chapter are enforced. Citations can be issued for any violation of this chapter by any authorized person from the tax office, code enforcement office, or by the police department (1980 Code, § 5-210)

9-213. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city 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 vendor, 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 vendor, 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 Treasurer 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. (1980 Code, § 5-211)

9-214. 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. (1980 Code, § 5-212)

9-215. Expiration and renewal of permit. Permits issued to permittees who are not subject to a privilege tax shall be issued for fourteen (14) days only. 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. (1980 Code, § 5-213, as replaced by Ord. #1117, June 2002)