

CHAPTER 2

PEDDLERS, ETC.

SECTION

5-201.	License required.
5-202.	Definitions.
5-203.	Application.
5-204.	Investigation and Issuance.
5-205.	Bond.
5-206.	Use of streets.
5-207.	Exhibition of license.
5-208.	Location of premises.
5-209.	Transfer.
5-210.	Loud noises and speaking devices.
5-211.	Duty of police to enforce.
5-212.	Records.
5-213.	Revocation of license.
5-214.	Reapplication.
5-215.	Appeal.
5-216.	Judicial review of Board of Commissioners' Action.
5-217.	Expiration of License.

5-201. License required. It shall be unlawful for a peddler, transient merchant, itinerant merchant or itinerant vendor as defined in Section 5-202 of this ordinance to engage in such business within the City of Paris without first obtaining a license therefore in compliance with the provisions of this ordinance. Provided, however, that yard sales and the sales of home grown and home made items shall be exempt from the provisions of this chapter except during the World's Biggest Fish Fry celebration. (Ord. #581, 03/03/83; Ord. #598, 09/01/83; Ord. #761, 08/06/91; Ord. #794, 04/15/92).

5-202. Definitions. For the purpose of this ordinance a peddler, transient merchant, itinerant merchant or itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary, occasional business of selling and delivering goods, wares and merchandise at retail within said city, and who, in furtherance, or such purpose hires, leases, uses or occupies any building structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, motels, lodging houses, apartments, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. Provided if that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provision of this ordinance shall be deemed to be subject to the provisions of this ordinance. The person, firm, or corporation so engaged shall not be relieved from complying with the provision of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

5-203. Application. Applicants for license under this ordinance, whether a person, firm or corporation, shall file a written sworn application signed by the applicant, if an individual, by all partners if a partnership, and by the president if a corporation, with the City Recorder showing:

(a) The name or names of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City of Paris; the local address of such person or persons while engaged in such business; the permanent

address of addresses of such person, or persons; the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state the same is incorporated.

(b) Deleted (Ord. #761, 08/06/91).

(c) The place or places in the City of Paris where it is proposed to carry on applicant's business; and the length of time during which it is proposed that said business shall be conducted;

(d) The most recent five (5) places, other than the permanent place of business of the applicant where applicant has conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(e) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City of Paris, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed;

(f) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and, if required by the City Recorder, copies of all said advertising whether by handbills, circular, newspaper advertising, or otherwise, shall be attached to said application as exhibits thereto;

(g) Whether or not the person or persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefore;

(h) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act such representative; and

(i) At the time of the filing of 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. Said fee shall be in addition to the appropriate fee for a State Business Tax License pursuant to the provisions of T.C.A. 67-4-701 et. seq. and/or 67-4-709 (a) (6) (Ord. #761, 08/06/91).

(j) Proof of a Tennessee Taxpayer Identification Number (TIN) or proof of non-taxable status (Ord. #761, 08/06/91).

(k) Notwithstanding the provisions of 5-203 (a) – (j), during the annual World's Biggest Fish Fry, Eiffel Tower Day or such other event designated by the Board of Commissioners, any vendor as defined in the provisions of 5-202 of this chapter may secure a permit valid during the period of such celebration without the necessity of complying with the application provisions set out hereinabove, upon payment to the City Business Office of a license fee as follows:

(1) each individual person selling or offering for sale goods, wares, or merchandise including food or food products, as defined by this chapter, from a push-cart, tray, or other mobile apparatus shall be required to pay a license fee of \$10.00.

(2) each vendor selling or offering for sale goods, wares, or merchandise, including food or food products, as defined by this chapter, from a stationary booth, concession stand, or carnival midway booth shall be required to pay a license fee of \$20.00 (Ord. #794, 04/15/92).

Provided, however that the provisions of this chapter shall not be applicable to any person, group, or organization with a valid charitable solicitation permit issued by the City of Paris pursuant to the provisions of 5-301 et.eq. of the Paris Municipal Code. (Ord. #761, 08/06/91; Ord. #794, 04/15/92).

5-204. Investigation and issuance. Upon receipt of such application, within twenty-four (24) hours, the city recorder shall cause such investigation of such person or person's business responsibility or moral character to be made as he deems necessary to the protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be not in conformance with the standards set out in this chapter, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the city recorder shall so certify in writing, and a license shall be issued by the City Recorder. The City Recorder shall keep a full record in his office of all licenses issued. Such license shall contain the number of license, the date the same is issued, the nature of the business authorized to be carried on, the expiration date of said license, the place where said business may be carried on under said license, and the name or names of the person or persons authorized to carry on the same. Prior to the issuance of a license by the city recorder, the applicant shall comply with all license fees, business tax forms, and other such requirements as may be mandated by the State of Tennessee, the County of Henry, and the City of Paris.

5-205. Bond. Before any license, as provided by this ordinance, shall be issued for engaging in transient or itinerant business as denied in Section 5-202 of this ordinance in the City of Paris, such applicant shall file with the City Recorder a bond running to the City of Paris in the sum of \$1,000 executed by the applicant, as principal, and two sureties upon which service of process may be made in the State of Tennessee or a surety bond written by a company licensed to do business in the State of Tennessee, conditioned that the said applicant shall comply fully with all of the provisions of the ordinance of the City of Paris, and the statutes of the State of Tennessee regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against the said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentation or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to use of the aggrieved person.

5-206. Use of streets or sidewalks. No licensee shall have any exclusive right to any location in the public streets or sidewalks, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or sidewalks. 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. (Ord. #695, 10/06/88).

5-207. Exhibition of license. The license issued under this ordinance shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

5-208. Location of premises. Licensees under this ordinance shall comply with the terms and conditions of the zoning ordinance of the City of Paris in all respects, both as to the uses permitted in a particular zone and the requirements for location of the business on the premises upon which business is to be conducted. In addition, the licensee shall provide to the city recorder a letter showing permission of the owner or manager of the premises upon which said licensee's business will be conducted, giving permission for the use of said premises by the licensee.

5-209. Transfer. No license shall be transferred without written consent from the City Manager as evidenced by an endorsement on the face of the license by the city recorder showing to whom the license is transferred and the date of the transfer.

5-210. Loud noises and speaking devices. No licensee under this ordinance, nor anyone in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of said city or upon any private premises in the said city where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

5-211. Duty of Police to Enforce. It shall be the duty of the police officers of the City of Paris, Tennessee to examine all places of business and persons in their respective territories subject to the provision of this ordinance, to determine if this ordinance has been complied with and to enforce the provisions of this ordinance against any person found to be violating the same.

5-212. Records. The City Recorder shall deposit the record of licenses, together with a license number, with the Chief of Police, the Chief of Police shall report to the City Recorder any complaint against any person licensed under the provisions of this ordinance and any conviction for violation of this ordinance; the City Recorder shall keep a record of all such licenses and such complaints and violations (Ord. #794, 04/15/92).

5-213. Revocation of License.

(1) Licenses issued under the provisions of this chapter may be revoked by the municipal governing body 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, itinerant vendor, as the case may be, in any 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) When reasonably necessary in the public interest the City Manager may suspend a license pending the revocation hearing.

5-214. Re-application. No licensee whose license has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last revocation.

5-215. Appeal. Any person aggrieved by the decision of the City Recorder in regard to the denial of an application for license as provided for in Section 5-204 of this ordinance or in connection with the revocation of a license as provided for in Section 5-213 of this ordinance, shall have the right to appeal to the Board of Commissioners of the City of Paris. Such appeal shall be taken by filing with the Commission within fourteen (14) days after notice of the decision by the City Recorder has been mailed to such person's last known address, a written statement setting forth the

grounds for the appeal. The Commission shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person at least seven (7) days prior to the hearing date.

5-216. Judicial review of Board of Commissioners' action. The action of the Board of Commissioners in connection with the issuance of a license of any kind, including the revocation of a license may be reviewed by the statutory writ of certiorari with the trial de novo as a substitute for an appeal, said writ of certiorari to be addressed to the Circuit or Chancery Court of Henry County, Tennessee. Immediately upon the grant of the writ of certiorari, the Board of Commissioners shall cause to be made, certified and forwarded to said court, a complete transcript of the proceedings before the Board.

5-217. Expiration of license. All licenses issued under the provisions of this ordinance shall expire one (1) year after the date of issuance thereof unless a prior date is fixed therein. (Entire chapter from Ord. #581, 03/03/83).