

# CHAPTER 9

## LICENSES AND BUSINESS REGULATIONS

### ARTICLE XV. MOBILE FOOD VENDORS

**Sec. 9-140. Purpose.** The purpose of this Article is to protect the public health, safety, and welfare of the residents of the City of Oakdale by regulating mobile food vehicles through the establishment of reasonable regulations and licensing requirements.

**Sec. 9-141. Definitions.** The following words, terms and phrases when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning.

- Issuing Authority – The City Administrator or his authorized designee.
- Mobile Food Vehicle - Any vehicle or trailer used for the purpose of selling more than two (2) types of food or beverage prepared inside the vehicle and ready to be consumed while the vehicle is parked.
- Mobile Food Vehicle License – A Mobile Food Vehicle License issued under this Article that is valid during the licensing term.
- Temporary Mobile Food Vehicle License – A one (1) day Mobile Food Vehicle License valid for the day(s) that it is issued for.

**Sec. 9-142. License Required.** It is unlawful for any person to operate a Mobile Food Vehicle without a license from the City. Operations meeting the definition of a Mobile Food Vehicle and operating under a valid Mobile Food Vehicle license do not need a Peddler’s license under Section 9-69(b) of the City Code.

**Sec. 9-143. License Requirements.**

- a) **Application.** Application for a Mobile Food Vehicle license will be made on forms supplied by the City. All registration and license applications must be submitted to the Issuing Authority a minimum of fifteen (15) regular business days before the applicant desires to begin conducting business within the city. No license will be issued for any activity that does not adhere to this requirement. The Issuing Authority may require such information on the application as it deems reasonable and necessary, including but not limited to, the following information:
- 1) The applicant’s full legal name and date of birth in addition to the applicant’s full address of permanent residence.
  - 2) If the applicant is a partnership; the names, dates of birth, addresses and phone numbers of all partners. If the applicant is a corporation; the names, dates of birth, addresses and phone numbers of all officers of the corporation.
  - 3) Any and all other names under which the applicant has conducted or does conduct business, or to which the applicant will officially answer to.
  - 4) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
  - 5) Telephone number of applicant’s permanent residence.
  - 6) Any and all business-related telephone numbers of the applicant, including cellular phones, facsimile (fax) machines, and e-mails where the applicant can be reached while conducting business within the city.
  - 7) Applicant’s business and residential addresses for a period of five years prior to the application date; a statement as to whether the applicant is the sole owner of the business; and a statement to the effect that no other persons other than those named have any interest in the management and control of the business.

- 8) The applicant's driver's license number or other acceptable form of identification.
  - 9) The dates and time during which the applicant intends to conduct business.
  - 10) A menu of the items to be sold or services to be provided.
  - 11) A description of the location of the property where the activity is to be conducted and written permission of the property owner or the property owner's agent for any location to be used.
  - 12) Information relating to all convictions of any felony, gross misdemeanor or misdemeanor level violation of any state or federal statute or any local ordinance, other than minor traffic offenses.
  - 13) A list of the three (3) most recent locations where the applicant has conducted business.
  - 14) Valid copies of all necessary licenses or permits required by state or local health and transportation authorities.
  - 15) The license plate number and physical description for the mobile food vehicle to be used as well as a photograph of the mobile food vehicle.
  - 16) A signed statement that the applicant shall hold harmless the city and shall indemnify the city and any applicable persons for any claims for damage to property or injury to persons, which may occur by any activity carried on under the terms of the license.
  - 17) Licensee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, city, and the district from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days' written notice filed with the Issuing Authority. No license shall be valid at any time the insurance required herein is not maintained and evidence of its continuance filed with the Issuing Authority.
  - 18) Any and all additional information as may be deemed necessary by the Issuing Authority.
- b) **Fee.** All applications for a license shall be accompanied by a fee established by the City Council.
- c) **Licensing Procedure.** Upon receipt of the application and of the license fee, the Issuing Authority will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If an application is determined incomplete, the Issuing Authority must inform the applicant of that required, or otherwise necessary information is missing. If the application is complete, the Issuing Authority staff will order any investigation, including background checks, necessary to verify the information provided with the application. Within fifteen (15) regular business days of receiving a complete application, the Issuing Authority must issue the license unless grounds exist for denying the license application under Sec. 9-145.
- d) **Duration.** Licenses may be issued on an annual or per day basis. Applicants may choose one from the two (2) types of Mobile Food Vehicle Licenses during the initial application process:
- 1) Mobile Food Vehicle Licenses shall only be valid for the licensing term. The licensing term shall begin on September 1<sup>st</sup> and run through August 31<sup>st</sup> of the following year.
  - 2) Temporary Mobile Food Vehicle Licenses shall only be valid for the dates the license is issued for.
- e) **Display of License.** All licenses issued shall be visibly displayed on the outside of the Mobile Food Vehicle at all times during business conduction.

**Sec. 9-144. Licensing Exceptions.** Mobile Food Vehicles participating in organized events approved by the City shall be exempt from the licensing requirements of this Article.

**Sec. 9-145. License Ineligibility.** The following should be grounds for denying a Mobile Food Vehicle License:

- a) The failure of an applicant to obtain and demonstrate proof of all necessary licenses or permits required by state or local health and transportation authorities.

- b) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.
- c) The failure of an applicant to sign the license application.
- d) The failure of an applicant to pay the required fee, (if any), at the time of application.
- e) A conviction within the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person or property.
- f) The revocation within the past five (5) years of any similar licenses issued to an applicant.
- g) Evidence of any unresolved or ongoing government or legal action against the business filed by any state or government entity.
- h) The existence of three (3) or more substantiated complaints about the business conduct within the preceding three (3) years from city residents or other jurisdictions where licenses have been issued to the applicant.
- i) When the Issuing Authority has learned the applicant has changed any name or names relating to the applicant or business in an attempt to hide or escape any legal obligation(s).
- j) If after investigation, the Issuing Authority finds the character and business responsibility of the applicant to be unsatisfactory or a potential harm to the public.

**Sec. 9-146. License Denial Procedure.** If the city denies the license application, the applicant must be notified in writing of the decision and the reason for denial. Notice shall be delivered in person or by regular mail to the applicant at the address provided in the application and shall inform the applicant of the applicant's right to appeal the denial by requesting in writing, within twenty (20) days of receiving notice of denial, a hearing before the City Council. The City Council shall hear the appeal within twenty (20) days of the date of the request for a hearing.

**Sec. 9-147. Suspension and Revocation.**

- a) **Generally.** Any license may be suspended or revoked at the discretion of the Issuing Authority for violation of any of the following:
  - 1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
  - 2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
  - 3) Subsequent conviction of any offense to which the granting of the license could have been denied under Sec. 9-145.
  - 4) Engaging in any prohibited activity as provided under Sec. 9-149.
- b) **Notice and Right to Hearing.** Prior to revoking or suspending any license, the Issuing Authority shall provide a license holder with written notice of the alleged violations and inform the licensee or registrant of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by regular mail to the applicant at the address provided in the application and shall inform the applicant of the applicant's right to a hearing. If no request for a hearing is received within ten (10) days following the service of the notice, the Issuing Authority may proceed with the suspension or revocation. For the purpose of a mailed notice service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the hearing.
- c) **Emergency.** If, in the discretion of the Issuing Authority, imminent harm to the health or safety of the public may occur because of the actions of a Mobile Food Vehicle licensee, the Issuing Authority may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in part (b) of this section.

**Sec. 9-148. License or Registration Transferability.** No license issued shall be transferred to any person other than the person to whom the license was issued.

**Sec. 9-149. Restrictions.** No Mobile Food Vehicle shall conduct business in any of the following manners and in the following areas:

- a) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible.
- b) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- c) Conducting business in a way as to create a threat to the health, safety and welfare of any specific individual or the general public.
- d) Conducting business before 8 a.m. or after 8 p.m., unless authorized by the Issuing Authority.
- e) Failing to provide proof of license and identification when requested.
- f) Using the license of another person and or of another Mobile Food Vehicle license.
- g) Alleging false or misleading statements about the products being sold, including untrue statements of endorsement. No Mobile Food Vehicle shall claim to have the endorsement of the city solely base on the city having issued a license to that person.
- h) Remaining on the property of another when requested to leave or returning to that property after leaving, without written permission of the property owner.
- i) Otherwise operating their business in any manner that a reasonable person may find obscene, threatening, intimidating or abusive
- j) Conducting business in a city park or parking lot unless authorized by the Issuing Authority.
- k) Operate business less than two thousand (2,000) feet away when there is a permit issued for another food or similar permitted event, festival, celebration, or tournament at the same location.
- l) Failing to maintain mobile food vehicle in good repair, order, and neat appearance.
- m) Failing to clean up around their mobile food vehicle at the end of each business day.
- n) Dispensing liquid and or other waste products from mobile food vehicle on to city, public, and private property.
- o) Conducting business less than two thousand (2,000) feet away from any food service business.