

# CHAPTER 9 LICENSES AND BUSINESS REGULATIONS

## ARTICLE VII. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

**Sec. 9-66. Purpose.** It is the purpose of this section to protect the public health, safety and welfare of the citizens of the city of Oakdale by regulating door-to-door sales, solicitations, and transient merchandising through the establishment of reasonable regulations and licensing requirements.

**Sec. 9-67. Definitions.** The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- **Garage Sales** – Any isolated or occasional display and sale of used personal property or homecrafted items conducted on residential premises by the occupant of the residential property. Garage sales shall include rummage sales, basement sales, yard sales, porch sales, craft sales and all other periodic sales at a residential location.
- **Issuing Authority** – The Oakdale Administration Department.
- **Non-Commercial Door-to-Door Advocate** – A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs.
- **Peddler** – A person with no fixed place of business who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, other personal property, or services that the person is carrying or otherwise transporting-
- **Solicitor** – Any person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be representing or displaying samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time.
- **Transient Business** – A business enterprise conducted by transient merchants involving the selling of goods, wares, products, merchandise, or other personal property.
- **Transient Merchant** – Any individual or entity which engages in temporary or transient business in the city from a fixed location or locations, but who does not remain in any one location for more than four (4) consecutive days and which hires, leases, occupies or uses any building, structure or land to conduct such business. The term includes not only the entity or individual on whose behalf the transient business is being conducted, but also all individuals actually engaged in conducting the transient business with the city.

**Sec. 9-68. Exceptions to Definitions.** For the purpose of this chapter, the terms Peddler, Solicitor, and Transient Merchant shall not apply to:

- (a) Persons who may sell or peddle products of a farm or garden occupied and cultivated by them.
- (b) Nonprofit, religious, political or educational organizations.
- (c) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

- (d) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other property to a retail seller of the items being sold by the wholesaler.
- (e) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (f) Any person conducting an auction as a properly licensed auctioneer.
- (g) Commercial travelers or selling agents in the usual course of business.
- (h) Business in conjunction with a city-sponsored event.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with all other applicable statutory provisions or requirements provided by this or any other city ordinance.

**Sec. 9-69. License / Registration Required.**

- (a) **County license required.** No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota State Statute, Section 329.
- (b) **City license or registration required.** Except as otherwise provided under the terms of this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register and obtain a certificate of registration from the Issuing Authority.

**Sec. 9-70. License or Registration Requirements.**

- (a) **Application and Registration.** Application for a transient merchant or peddler license and solicitor registration will be made on forms supplied by the city. All registration and license applications must be submitted to the issuing authority staff a minimum of fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. No license will be issued for any activity that does not adhere to this requirement. The application and registration form shall be signed by the applicant and shall contain:
  - (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 and facsimile (fax) machines 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 type of business for which the applicant is making license application.
- (10) The dates during which the applicant intends to conduct business.
- (11) A brief description of the activity and a general description of the items to be sold or services to be provided.
- (12) 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 by a transient merchant.
- (13) 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.
- (14) A list of the three (3) most recent locations where the applicant has conducted business.
- (15) Proof of any required county license.
- (16) The license plate number and physical description for all vehicles to be used in conjunction with the business operation.
- (17) Any and all additional information as may be deemed necessary by the Issuing Authority.

(b) **Fee.** All applications for a license under this chapter shall be accompanied by a fee established by the City of Oakdale.

(c) **Licensing Procedure.** Upon receipt of the transient merchant or peddler application and payment of the license fee, the issuing authority staff 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 ten (10) 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. 9-71.

(d) **Registration Procedure.** All solicitors shall be required to register with the city prior to engaging in soliciting activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form and review for completeness, the issuing authority shall issue to the registrant a certificate of registration as proof of the registration, unless grounds exist for denying the certificate of registration under Sec. 9-71.

(e) **Duration.** All licenses and certificates of registration under this ordinance shall be valid only during the quarter in which the activity is taking place. Quarters are January through March, April through June, July through September and October through December. Only one license or certificate of registration may be issued to any applicant on behalf of a single identified commercial entity during or for the same quarter period. No transient business activity may be conducted in the city for more than eight (8) days total during a quarter and not for a period of more than four (4) consecutive days.

**Sec. 9-71. License or Certificate of Registration Ineligibility.** The following should be grounds for denying a peddler or transient merchant license or certificate of registration:

- (a) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
- (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 license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- (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 Oakdale residents or other jurisdictions where licenses or certificates of registration have been issued.
- (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 and can endorse the disapproval and reasons for same.

**Sec. 9-72. License or Registration 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, within twenty (20) days of receiving notice of rejection, a public 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. 9-73. Suspension and Revocation.**

- (a) **Generally.** Any license issued under this section may be suspended or revoked at the discretion of the Issuing Authority for violation of any of the following:
  - (a) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
  - (b) Fraud, misrepresentation or false statements made during the course of the licensed activity.
  - (c) Subsequent conviction of any offense to which the granting of the license could have been denied under Sec. 9-71.
  - (d) Engaging in any prohibited activity as provided under Sec. 9-76.
- (b) **Notice and Right to Public Hearing.** Prior to revoking or suspending any license under this chapter, the issuing authority shall provide a license or certificate of registration 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 public 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 public 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 public 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 peddler, solicitor, or transient merchant licensed or registered under this ordinance, the Issuing Authority may immediately suspend the person's license or registration and provide notice of the right to hold a subsequent public hearing as prescribed in part (b) of this section.

**Sec. 9-74. License or Registration Transferability.** No license or certificate of registration issued under this chapter shall be transferred to any person other than the person to whom the license or certificate of registration was issued.

**Sec. 9-75. Transient Business Regulations.**

- (a) The site of the transient business shall have direct access or abut access to an arterial or collector street and be located only in the C1 or C2 Commercial Zoning Districts.
- (b) No part of any transient business shall be located within 150 feet of a street intersection.
- (c) Transient merchants must keep the property free from trash, litter, and debris.
- (d) Signs must not have a total aggregate sign face surface measurement of more than six square feet.
- (e) The transient merchant must have immediate possession of written evidence of consent of the owner of the property to conduct the transient business thereon.

**Sec. 9-76. Prohibited Activities.** No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

- (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.
- (e) Failing to provide proof of license, or registration, and identification when requested.
- (f) Using the license or registration of another person.
- (g) Alleging false or misleading statements about the products being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

- (h) Remaining on the property of another when requested to leave or returning to that property after leaving, without the permission of the property owner.
- (i) Otherwise operating their business in any manner that a reasonable person may find obscene, threatening, intimidating or abusive.

**Sec. 9-77. Exclusion by Placard.** Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate or other person engaged in other similar activities shall enter onto the property of another for the purpose of such activity when the property is marked with a sign or placard bearing the notice "Peddlers and Solicitors Prohibited". No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

**Sec. 9-78. Penalty.** Any individual found in violation of any provision of this ordinance shall be guilty of a misdemeanor.