



**REQUIREMENTS TO RECEIVE
CITY OF OSAKIS
TRANSIENT MERCHANTS LICENSE**

Ordinance 113 (copy attached) establishes licensing, registration, and operational requirements for individuals or businesses conducting door-to-door sales, temporary sales, or solicitation activities within the City of Osakis.

Licensing Requirements:

- Applications must be submitted to the city at least 14 days prior to beginning operations and include detailed personal, business, vehicle and activity information.
- A county license must be obtained prior to applying for a city license. (application attached). If you have a food truck, we will just need a copy of your current food license.
- A city license must be obtained before conducting business.
- Applicants must pay the fees set by the City Council.
- Applicants must have a description of goods or services offered

License Duration:

- Annual licenses are valid for one calendar year
- Daily licenses are valid only for the approved dates, with a maximum of 14 consecutive days.

Grounds for Denial:

- If the application contains false or incomplete information
- The applicant has certain criminal convictions with the past 5 years
- Previous similar licenses were revoked within the past 5 years
- The applicant has a poor business reputation, including multiple consumer complaints

Suspension or Revocation:

- Fraud or false statements
 - Criminal convictions related to business conduct
 - Violations of the ordinance
- (License holders are entitled to written notice and the opportunity for a public hearing before action is finalized, except in emergencies involving public health or safety)



City of Osakis

14 Nokomis Street East
PO Box 486
Osakis, Minnesota 56360

Phone #320-859-2150

Fax #320-859-3978

E-mail - cityhall@cityofosakis.com

Application Fee \$50

PAID: _____

Date Received: _____

Transient Merchant Application

Full Legal Name: _____

Date of Birth: _____

Applicant's Permanent Address: _____

Physical Description of the Applicant:

_____	_____	_____	_____
Eye Color	Hair Color	Height	Weight

Legal Business Name of ALL business's owned or operated by Applicant: _____

Business Address: _____

Cell Phone Number: _____

Business Phone Number: _____

E-mail Address: _____

Type of Business: _____

Daily License (Dates & Times, Daily license Max of 14 consecutive dates): _____

Locations of setup of business: _____

Annual License (Dates & Times): _____

Locations of setup of business: _____

www.cityofosakis.com

"A Friendly Place to Play and Stay"

This institution is an equal opportunity provider and employer.

For Office Use Only:

Date Received: _____

City Clerk Complete Review (2 days): _____ Date: _____

Police Chief Review: _____ Date: _____

City Clerk Approval Denial: _____ Date: _____

Denial Appeal to Council (20 days): _____

Transient License Date Issued: _____

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CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Registration
- 113.08 Prohibited activities
- 113.09 Exclusion by placard

§ 113.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, 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 or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term **HAWKER**.

PERSON. Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as **REGULAR BUSINESS DAYS**.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, 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 carrying or transporting 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. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER**.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter or empty store front for the purpose of exposing or displaying for sale, selling or

attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

§ 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR** and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS**, **SOLICITORS** and **TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 113.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

§ 113.03 LICENSING; EXEMPTIONS.

(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 required by M.S. Ch. 329 as it may be amended from time to time, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 113.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk/Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;

- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;
- (13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any requested county license;
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- (17) A general description of the items to be sold or services to be provided;
- (18) All additional information deemed necessary by the City Council;
- (19) The applicant's driver's license number or other acceptable form of identification; and
- (20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee in an amount as set by Council from time to time.

(E) *Procedure.*

- (1) Upon receipt of the completed application and payment of the license fee, the City Clerk/Treasurer, within 2 regular business days, must determine if the application is complete.
- (2) An application is determined to be complete only if all required information is provided. If the City Clerk/Treasurer determines that the application is incomplete, the City Clerk/Treasurer must inform the applicant of the required necessary information that is missing.
- (3) If the application is complete, the City Clerk/Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the City Clerk/Treasurer must issue the license unless there exist grounds for denying the license under § 113.04, in which case the Clerk/Treasurer must deny the license.
- (4) If the City Clerk/Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council.
- (5) The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for

a writ of certiorari.

(F) *Duration.*

(1) An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue.

(2) All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

Penalty, see § 10.99

§ 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license;

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application;

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; or

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

§ 113.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Fraud, misrepresentation or incorrect statements on the application form;

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity;

(3) Conviction of any offense for which granting of a license could have been denied under § 113.04; or

(4) Violation of any provision of this chapter.

(B) *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.*

(1) Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation.

(2) Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.*

(1) Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing.

(2) If no request for a hearing is received by the City Clerk/Treasurer within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation.

(3) For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail.

(4) If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request.

(5) Within 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) above.

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Penalty, see § 10.99

§ 113.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Penalty, see § 10.99

§ 113.07 REGISTRATION.

(A) All solicitors, and any person exempt from the licensing requirements of this chapter under § 113.03, shall be required to register with the city.

(B) Persons engaging in door-to-door advocacy shall not be required to register.

(C) The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

(D) Registration shall be made on the same form required for a license application, but no fee shall be required.

(E) Immediately upon completion of the registration form, the City Clerk/Treasurer shall issue to the registrant a certificate of registration as proof of the registration.

(F) Certificates of registration shall be non-transferable.

Penalty, see § 10.99

§ 113.08 PROHIBITED ACTIVITIES.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or 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 within an enclosed structure;

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk 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 individual or the general public;

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service 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; or

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

Penalty, see § 10.99

§ 113.09 EXCLUSION BY PLACARD.

(A) No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors and Transient Merchants Prohibited" or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

APPLICATION FOR TRANSIENT MERCHANT LICENSE

COUNTY OF DOUGLAS – STATE OF MINNESOTA

License Fee: \$150.00 Per Person / Per Location / Per Year

- Full legal name of applicant: _____
- Phone: _____ Email: _____
- If the applicant is not an individual, please indicate (circle one):
Corporation Limited Liability Company Partnership Other: _____
- _____
 Assumed or Other Name by which you are doing business
- _____
 Applicant’s Residential Address for previous two years
- _____
 Business Address for previous two years (if different than resident address)
- _____
 Type of business engaged in for the previous two years

Owner’s Name and Phone Number (if different than Applicant): _____

Owner’s Mailing Address (if different than Applicant): _____

Indicate how you will conduct your transient merchant sales:

- _____ Door-to-Door Sales within Douglas County (rural area outside of city limits)
- _____ Sale to be held at Specific Location: _____
- _____ Auction / Name of Auctioneer: _____

Length of Time / Date(s): _____

Describe the kind of business to be conducted: _____

I, the undersigned, hereby apply for a license to do business as a Transient Merchant and to sell goods, wares, and merchandise as such in the County of Douglas, State of Minnesota, for the term of one year from the date of issue of such license; and to that end hereby represent and state that I intend to carry on said business as noted above and that I have paid to the County Treasurer of Douglas County the \$150 fee required by law for such license and Bond and herewith present the receipt thereof.

Applicant / Licensee Signature: _____

Title (if signing on behalf of a business or organization): _____

Date: _____

Seller’s Permit # _____

Per M.S. 297A.83 for Sales Tax Purposes

329.11 LICENSE APPLICATION REQUIREMENTS

Any transient merchant desiring to engage in, do, or transact business by auction or otherwise, in any county in this state shall file an application for a license for that purpose with the auditor of the county in which the desired business is to be conducted, which application shall state the name of the applicant, the proposed place of business, the kind of business proposed to be conducted, and the length of time desired to do business. Such transient merchant shall pay to the treasurer of such county a license fee of \$150, and shall give bond to the county in an amount to be determined by the county treasurer, which shall be not less than \$1,000 nor more than \$3,000. The bond shall be approved by the treasurer and be conditioned that the merchant will in all things conform to the laws relating to transient merchants and further conditioned on full compliance with all material oral or written statements and representations made by the seller, the seller's agents, representatives, or auctioneers with reference to merchandise sold or offered for sale and on faithful performance under all warranties made with reference thereto. The treasurer of such county shall issue to such person receipts therefor, and such transient merchant shall thereupon file such receipts with the auditor of such county, who shall thereupon issue to such transient merchant a license to do business as such at the place described in the application; and the kind of business to be done shall be described therein. No license shall be good for more than one person unless such person shall be a member of a co-partnership, nor for more than one place, and shall not be good outside of the county in which it was issued. Such license shall be good for a period of one year from the date of its issuance. The auditor shall keep a record of such licenses in a book provided for that purpose, which shall at all times be open for public inspection. No license shall be issued unless the merchant produces evidence that the merchant is the holder of a valid seller's permit issued under section 297A.83, or a written statement from the merchant that the merchant is not offering for sale any item that is taxable under chapter 297A.

The application shall further contain the applicant's residence and business address for the prior two-year period; the type of business engaged in during the previous two years; and the name and address of the auctioneer who will conduct the sale. No such sale shall be conducted in the name of any person other than the bona fide owner of the merchandise.

The applicant shall attach to the application an itemized list of merchandise to be offered for sale reciting as to each item a description thereof including serial number if any, the owner's actual cost thereof, and a designation by number corresponding with a number to be affixed to each item by a tag which shall be kept fastened to the item at all times until sold.

Prior to the issuance of the license and approval of bond, the applicant shall in writing appoint the county auditor as the applicant's agent to accept service of process in any action commenced against the applicant arising out of the sale for which the license is sought. Such action shall be brought in the county where the sale was held.

(FOR OFFICE USE ONLY)

Filed this date _____ with the Douglas County Auditor-Treasurer.

Received by: _____, Deputy Auditor-Treasurer.
(signature of Deputy Auditor-Treasurer)

License # _____ License Term: _____ - _____

Application Checklist:

- _____ Application completed / signed / dated
- _____ Proof of State of MN seller's permit (MN Sales Tax ID #) . . . 1-800-657-3605
- _____ SP:C1 License Applicant Information Form
- _____ Appointment of County Auditor as Agent Form
- _____ Surety Bond for not less than \$1,000 and not more than \$3,000
- _____ List of sale items with serial numbers for each item
- _____ License Fee of \$150.00

