

Chapter 243

TRANSIENT MERCHANTS

- | | |
|--|-------------------------------------|
| § 243-1. Definitions. | § 243-6. Assistants. |
| § 243-2. Exclusions. | § 243-7. Badges and vehicle plates. |
| § 243-3. License required. | § 243-8. Revocation of license. |
| § 243-4. Application for license. | § 243-9. Sale of foodstuffs. |
| § 243-5. Issuance of license; limitations. | § 243-10. Violations and penalties. |

[HISTORY: Adopted by the Village Board of the Village of Black Earth 5-1-1990 by Ord. No. 90-O-7 as § 10.01 of the 1990 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Licenses and permits — See Ch. 179.

§ 243-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HAWKER and PEDDLER — Includes all individuals, whether principals, agents or employees, who go about the Village or from place to place transporting goods, wares or merchandise for the purpose of vending, selling, disposing of or delivering the same to any person or persons.

TRANSIENT MERCHANT — Includes all individuals, whether principals, agents or employees, who engage in, do or transact any temporary or transient business in this Village either in one location or by moving their place of business from place to place in the Village selling goods, wares or merchandise, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot, or railroad car or vehicle for the exhibition and/or sale of such goods, wares or merchandise.

§ 243-2. Exclusions.

- A. The terms of this chapter shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the acts of merchants or their employees in taking orders at the houses of their customers, for goods held by them in stock at established places of business within the Village, nor the acts of said merchants or their employees in delivering such goods in the regular course of business, nor shall the terms of this chapter be held to include or apply to any farmer or truck gardener who shall vend, sell or dispose of, or offer to sell, vend, or dispose of, the products of the farm or garden occupied and cultivated by him.
- B. Nothing contained in this chapter shall be held to prohibit any sale required by statute or by order of any court or to prevent any person from conducting a bona fide auction sale pursuant to law.

§ 243-3. License required.

It shall be unlawful for any transient merchant, hawker or peddler to vend, sell or dispose of, or to solicit from house to house for sale at retail, or to offer to vend, sell or dispose of, any goods, wares, merchandise, produce, goods or any other thing about the streets, avenues, alleys, or at any place whatsoever within the Village without first having obtained a license from said Village for that purpose and having paid the license fee therefor as hereinafter provided and prescribed.

§ 243-4. Application for license.

- A. Any person desiring to engage in business as aforesaid shall obtain a license application form from the Village Clerk-Treasurer. He shall fill out this application form stating the nature of and the place or places generally where his business is to be carried on, the length of time for which the license is desired, a general description of the things intended to be sold, disposed of or contracted for, the kind of vehicle to be used by the applicant in carrying on the business for which the license is desired, the name and permanent address of the applicant for such license, the name and address of the person, firm or corporation he represents, and the place or places of residence of the applicant for the two years previous. No license shall be granted until all the provisions of § 243-9 of this chapter shall have been complied with.
- B. Whenever the business of the applicant shall require the use of weighing or measuring devices, the application shall be accompanied by a certificate from the Sealer of Weights and Measures stating that said devices have been examined and approved.

§ 243-5. Issuance of license; limitations.

Upon filing of the application properly filled out and, in a proper case, a certificate as provided by this chapter, the Village Clerk-Treasurer shall issue to the applicant a license. All licenses shall be issued from a bound book with proper reference stubs kept for that purpose numbered in the order in which they are issued and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the number of the licensee's badge and license plate, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee, and the date of revocation of all licenses revoked.

- A. Such licenses shall automatically expire on January 1 following the date of issuance of such license, but such licenses may specifically state and provide for an earlier expiration date.
- B. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed.
- C. No license shall be granted to a person under 18 years of age, and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation no longer exists.

- D. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand of an officer or a customer or prospective vendee.
- E. A license shall not be assignable, and any holder of such license who permits it to be used by any other person, and also any person who uses a license granted to any other person, shall be guilty of a violation of this chapter.
- F. Whenever a license, badge or vehicle plates shall be lost or destroyed, a duplicate in lieu thereof under the original application may be issued by the Clerk-Treasurer upon the filing by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 243-6. Assistants.

Any licensee using a motor vehicle may employ two persons, and no more, to assist in transporting and delivering the goods, wares, and merchandise, but such persons shall so act only while accompanying a licensed transient merchant, hawker or peddler.

§ 243-7. Badges and vehicle plates.

The Village Clerk-Treasurer will supply badges and/or vehicle plates to licensed transient merchants, hawkers, and peddlers. Such badges and plates shall not be transferred or assigned.

- A. On the expiration of the license, the licensee shall surrender his badge to the Village Clerk-Treasurer. It shall be unlawful for any person to destroy, deface or injure such badge in any manner or change the number or date thereon. It shall also be unlawful for any person to wear or have in his possession such badge unless he is the licensed transient merchant, hawker or peddler in whose name the license is issued. Such licensee, while exercising his license, shall wear on the front of his outermost garment the badge so provided, which badge shall state the number and character of the license.
- B. The vehicle plates shall be displayed by every licensee operating a vehicle, one on each side of the body of the vehicle used by him in the exercise of his license. Such vehicle plates shall state the character and number of the license and the date of expiration. The color of the vehicle plates shall be changed each license year.
- C. The wearing of the badge and the display of the vehicle plates are hereby made a condition of every license to which such badge or plates apply, and failure by the licensee to wear the badge or to display the vehicle plates aforesaid, while in the exercise of his license, shall be cause for the revocation of such license.
- D. A deposit of as set by the Village Board shall be collected by the Village Clerk-Treasurer for each badge, which sum shall be refunded when the badge is returned by the licensee.¹

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 243-8. Revocation of license.

The Village President may at any time, for a violation of this chapter or any other ordinance or any law, revoke any license. When a license shall be revoked, no refund of any unearned portion of the licensee fee shall be made. Notice of such revocation and the reason or reasons therefor in writing shall be served personally upon the person named in the application or by mailing the same to the latest address given in the application and by filing a copy of such notice with the Village Clerk-Treasurer.

§ 243-9. Sale of foodstuffs.

No individual shall carry on any business included in this chapter involving the handling or sale of foodstuffs without first securing from the Health Officer a certificate stating that such person is apparently free from any contagious or infectious disease and agreeing in writing to submit to a further physical examination upon request of the Health Officer, but not more often than once in six months.

§ 243-10. Violations and penalties.

The penalty for violation of any provisions of this chapter shall be as provided in Chapter 1, General Provisions, § 1-4 of this Code.