

9.02 PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS.

- (1) REGISTRATION REQUIRED. No direct seller shall engage in direct sales within the City without being registered for that purpose in compliance with the provisions of this section.

- (2) DEFINITIONS.
 - (a) "Direct Seller" means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the same and includes but is not limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
 - (b) "Permanent Merchant" means a direct seller who, for at least one year prior to the consideration of the application of this section to such merchant has continuously operated an established place of business in the City, or, has continuously resided in the City and now does business from his/her residence.
 - (c) "Goods" shall include personal property of any kind, and goods provided incidental to services offered or sold.
 - (d) "Charitable organization" shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
 - (e) "Clerk" shall mean the City Clerk.

- (3) EXEMPTIONS. The following shall be exempt from all provisions of this section:
 - (a) Person delivering newspapers, fuel, dairy products or bakery goods to regular customers of established routes;
 - (b) Persons selling goods at wholesale to dealers;
 - (c) Persons selling agricultural products which he has grown;
 - (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business;
 - (e) Persons who have an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, such person;
 - (f) Any person who has had, or one who represents a company which has had or offering for sale of goods;

- (g) Persons selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (h) Persons holding a sale required by statute or by order of any court, and any person conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided there is submitted to the Clerk proof that such organization is registered under Section 440.41, Wis. Statutes. Any charitable organization not so registered, or which is exempt from that statute's registration requirements shall be required to register under this section.
- (j) Any person who claims to be a permanent merchant, but against who complaint has been made to the Clerk that such person is a transient merchant; provided the Clerk has proof that he has leased for at least one year or purchased the premises from which he is conducting business, or proof that such person has conducted business in the City for at least one year prior to the date the complaint was made.

(4) REGISTRATION.

- (a) Applicants for registration must complete a registration form furnished by the Clerk which shall require the following information:
 - 1. Name, permanent address and telephone number and temporary address, if any;
 - 2. Age, height, weight, color of hair and eyes;
 - 3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by or whose merchandise is being sold;
 - 4. Temporary address and telephone number from which business will be conducted, if any;
 - 5. Nature of business to be conducted and a brief description of the goods and services offered;
 - 6. Proposed method of delivery of goods, if applicable;
 - 7. Make, model and license number of any vehicle to be used by applicant in the business;
 - 8. Last cities, villages and towns, not to exceed three, where the applicant conducted a similar business;
 - 9. Place where applicant can be contacted for at least 7 days after leaving the City;
 - 10. Record of any crime or ordinance violation related to the business within the last 5 years; the nature of the offense and the place of the conviction.
- (b) Applicants shall present to the Clerk:
 - 1. A driver's license or other proof of identity;
 - 2. A State certificate of examination and approval from the sealer of weights and measures where the applicant's business required use of weighing and measuring devices approved by State authorities;
 - 3. A State Health Officer's certificate if the applicant's business involves the handling of food or clothing and is required to be certified under State Law; such certificate shall

state that the applicant is free from any contagious or infectious disease dated not more than 90 days prior to the date the application is made.

- (c) When the registration is returned, a fee of \$100.00 shall be paid to the Clerk to cover the cost of processing. The applicant shall sign a statement appointing the Clerk his agent to accept service of process in any civil action brought against him due to any sale or service performed by him in connection with his direct sales activities in the event he cannot after reasonable effort be served personally. Upon payment of such fee and the signing of such statement the Clerk shall register the applicant as a direct seller and date the entry. Such registration shall be valid for one year from the date of entry, subject to subsequent refusal as provided in (5) (b). This permit does not give the seller the right to sell on public property. Anyone desiring to sell on public property must have Council approval.

(5) INVESTIGATION.

- (a) Upon receipt of an application, the Clerk shall refer it immediately to the Chief of Police who shall make and complete an investigation of the application.
- (b) The Clerk shall refuse to register the applicant if it is determined pursuant to the above investigation that:
 - 1. The application contains omissions or inaccurate statements;
 - 2. Complaints have been received against the applicant by authorities in the previous Cities, Village and Towns in which the applicant conducted similar business;
 - 3. The applicant was convicted of a crime, statutory violation or ordinance violation within the last 5 years related to the applicant's fitness to engage in direct selling;
 - 4. The applicant fails to comply with any applicable provision of (4)(b).

- (6) APPEAL. Any person denied registration might appeal through the appeal procedure provided by ordinance or resolution of the Council, or if none has been adopted, under the provision of S. 68.07 through S. 68.16, Wis. Statutes.

(7) REGULATION OF DIRECT SELLERS.

(a) Prohibited Practices.

- 1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment, calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors" or words of similar meaning, calling at the rear door of any dwelling place, or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- 2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he

represents. A charitable organization direct seller shall specifically disclose what percentage of the sale price of goods being offered will actually be used for the charitable purpose from which the organization is soliciting.

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicle, all traffic and parking regulations shall be observed.
4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100 foot radius of the source.
5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall disclose his name, the name of the company or organization he is affiliated with, if any, and the type of goods or services he offers to sell.
2. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel such transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the provisions set forth in S. 423.203, Wis. Statutes. The seller shall give the buyer 2 copies of a typed notice of that fact. Such notice shall conform to the requirements of S. 423.203 (a), (b) and (c), and (2) and (3), Wis. Statutes.
3. If the direct seller takes an order for the later delivery of goods, he shall at the time the order is taken provide the buyer with a written statement containing terms of the agreement, any amount paid in advance, the name, address and telephone number of the seller, the delivery or performance data and whether a guarantee or warranty is provided and if so, the terms thereof.

(8) RECORDS. The Police Chief shall report to the Clerk all convictions for violations of this section and the Clerk shall note any such violation on the record of the registrant convicted.

(9) REVOCATION OF REGISTRATION.

- (a) Registration may be revoked by the Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in his application or made any fraudulent, false, deceptive or misleading statement or representative in the course of engaging in direct sales, violated any provision of this section or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing, and such notice shall contain the time and place of hearing a statement of the acts upon which the hearing will be based.

(10) PENALTY. Any person convicted of violating any provision of this section shall forfeit not less than \$10.00 nor more than \$100.00 for each violation plus costs of prosecution. Each violation shall constitute a separate offense.