

Chapter 21

DIRECT SELLERS

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21.01 REGISTRATION REQUIRED.

It shall be unlawful for any direct seller to engage in direct sales within the Village without being first registered for that purpose as herein provided.

21.02 DEFINITIONS.

(a) "Charitable Organization" shall include any benevolent, philanthropic, or patriotic person, partnership, association or corporation, or one purporting to be such.

(b) "Clerk/Treasurer" shall mean the Village Clerk/Treasurer.

(c) "Direct Seller" means any person who, as an individual, 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 said individual, partnership, association or corporation. "Direct Seller" shall include, but not be 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.

(d) "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

(e) "Permanent Merchant" means a direct seller who, for at least one year has continuously operated an established place of business in the Village, or has continuously resided within the Village and now does business from his/her residence.

21.03 EXEMPTIONS.

The following shall be exempt from all provisions of this Chapter:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

(b) Any person selling goods at wholesale to dealers in such goods.

(c) Any person selling agricultural products which such person has grown.

(d) Any permanent merchant or employee who delivers 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) Any person who has 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, said person.

(f) Any person who has had, or one who represents a company which has had, a prior business transaction such as a prior sale or credit arrangement, with the prospective customer.

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

(h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to the laws of the Village or of this State.

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk/Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall not be required to register under this ordinance;

(j) Any person who claims to be a permanent merchant and submits to the Clerk/Treasurer, upon request, proof that he has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that he has conducted such business in this Village for at least one year.

21.04 REGISTRATION.

(a) Required Information. Applicants for registration must complete and return to the Clerk/Treasurer a registration form furnished by the Clerk/Treasurer 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 or services offered;

(6) proposed method of delivery of goods, if applicable;

(7) make, model and license number of all vehicles to be used by applicant in the conduct of applicant's business in the Village;

(8) last cities, villages, towns, not to exceed three, where applicant conducted similar business;

(9) place where applicant can be contacted for at least seven days after leaving this Village; and

(10) a statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years and, if so, the nature of the offense and the place of conviction.

(b) Required Certificates. Applicants shall present to the Clerk/Treasurer for examination:

(1) a driver's license or some other proof of identity as may be reasonably required;

(2) a state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities; and

(3) a state health officer's certificate where 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 apparently free from any contagious or infectious disease, and be dated not more than 90 days prior to the date the application for license is made.

(c) Required Fees and Statements. At the time the registration is returned, a fee of Fifty (\$50.00) Dollars shall be paid to the Clerk/Treasurer to cover processing costs. The applicant shall sign a statement appointing the Clerk/Treasurer as the applicant's agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be personally served. Upon payment of said fee and signing of said statement, the

Clerk/Treasurer shall register the applicant as a direct seller and date the entry. The registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Section 21.05(b), below.

21.05 INVESTIGATION.

(a) Referral to Sheriff. Upon receipt of each applicant the Clerk/Treasurer may refer it immediately to the Sheriff's office to make a complete investigation of the statements made in such registration.

(b) Refusal to Register. The Clerk/Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:

(1) the application contains any material omission or materially inaccurate statement;

(2) complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted similar business;

(3) the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling;

(4) or the applicant failed to comply with any applicable provision of Sec. 21.04(b) of this Code.

21.06 APPEAL.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board, or, if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Wis. Stats.

21.07 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 portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

21.08 RECORDS.

The Sheriff shall report to the Clerk/Treasurer all convictions for violation of this Chapter and the Clerk/Treasurer shall note any such violation on the record of the registrant convicted.

21.09 REVOCATION OF REGISTRATION.

(a) When Permitted. Registration may be revoked by the Village Board after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this ordinance 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) Notice. Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the facts upon which the

hearing will be based.

21.10 PENALTY.

Any person convicted of violating any provisions of this Chapter shall forfeit not less than One Hundred (\$100.00) Dollars nor more than Two Hundred (\$200.00) Dollars for each violation plus costs of prosecution. Each violation shall constitute a separate offense.