

Title 7 - LICENSING AND REGULATION

Chapter 4 - DIRECT SELLERS

Table of Contents

Title 7 - Licensing and Regulation.....1

Chapter 4 - Direct Sellers.....1

7.4.1Definitions.2

 7.4.1.01Charitable Organization.....2

 7.4.1.02Clerk2

 7.4.1.03Direct Seller.....2

 7.4.1.04Goods.....2

 7.4.1.05Permanent Merchant.....2

 7.4.1.06Person2

7.4.2Registration Required.2

7.4.3Exemptions.2

7.4.4Registration Procedure.....3

 7.4.4.01Application3

 7.4.4.02Documentation Required.....3

 7.4.4.03Registration Fee.....4

 7.4.4.04Agent for Service of Process4

7.4.5Permits.4

 7.4.5.01Term.....4

 7.4.5.02Daily Permit.....4

 7.4.5.03Revocation4

7.4.6Bond.....4

7.4.7Investigation.5

 7.4.7.01Referral5

 7.4.7.02Denial.....5

7.4.8Appeal.....5

7.4.9Prohibited Practices.5

7.4.10Disclosure Requirements.6

7.4.11Records.6

7.4.12Revocation of Registration.6

Permit No. 7

Application for Direct Seller’s Permit in the Town of Grafton.....7

Table of Authorities for Title 7 - Licensing and Regulation, Chapter 4 - Direct Sellers.....9

Index to Title 7 - Licensing and Regulation, Chapter 4 - Direct Sellers 4-10

7.4.1 Definitions.

In this chapter, the following terms shall have the meaning indicated:

7.4.1.01 Charitable Organization

Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.

7.4.1.02 Clerk

The Town of Grafton Clerk or Deputy Clerk.

7.4.1.03 Direct Seller

Any individual who, for him/herself, or for a partnership, association or corporation, sells goods, 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, or solicits funds for a charitable organization, and 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.

7.4.1.04 Goods

Personal property of any kind and shall include goods provided incidental to services offered or sold.

7.4.1.05 Permanent Merchant

A direct seller who, for at least one year prior to the consideration of the application of this chapter to said merchant:

- (A) Has continuously operated an established place of business in this Town; or
- (B) Has continuously resided in this Town and now does business from his/her residence.

7.4.1.06 Person

All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

7.4.2 Registration Required.

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

7.4.3 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 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) 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.
- (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 veteran who holds a special state license issued pursuant to Sec. 440.51, Wis. Stats.
- (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 law.
- (I) Any employee, officer or agent of a charitable organization who engages in public solicitation or direct sales for or on behalf of said organization, provided that the entire funds or proceeds from the sales go and belong to the charitable organization and the solicitor is not compensated for the solicitation.
- (J) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in this Town for at least one year prior to the date complaint was made.

7.4.4 Registration Procedure.

7.4.4.01 Application

Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Town Clerk which shall require the following information:

- (A) Name, permanent address and telephone number, and temporary address, if any.
- (B) Height, weight, color of hair and eyes, date of birth and social security number.
- (C) 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.
- (D) Temporary address and telephone number from which business will be conducted, if any.
- (E) Nature of business to be conducted and a brief description of the goods offered and any services offered.
- (F) Proposed method of delivery of goods, if applicable.
- (G) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business.
- (H) Last cities, villages, and towns, not to exceed three, where the applicant conducted similar business just prior to making this registration.
- (I) Place where the applicant can be contacted for at least seven days after leaving this Town.
- (J) 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, the nature of the offense and the place of conviction.

7.4.4.02 Documentation Required

Applicants shall present to the Town Clerk for examination:

- (A) A driver's license or some other proof of identity as may be reasonably required.

- (B) A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.
- (C) A State Health Officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.
- (D) Ice cream vendors and other solicitors operating from a moving vehicle will need to show proof of liability insurance with a minimum limit of Five Hundred Thousand Dollars (\$500,000.00), general liability, and a minimum automobile liability coverage limit of Two Hundred Fifty Thousand Dollars (\$250,000) per person, and Five Hundred Thousand Dollars (\$500,000.00) per accident.

7.4.4.03 Registration Fee
At the time the registration is returned, a fee as established by resolution of the Town Board shall be paid to the Town Clerk to cover the cost of investigation and processing said registration. Each and every member of a group must file a separate registration form and pay said fee.

7.4.4.04 Agent for Service of Process
The applicant shall sign a statement appointing the Town Clerk his 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 served personally.

7.4.5 Permits.
Upon payment of said fee and the signing of said statement, the Town Clerk shall register the applicant as a direct seller, date the entry and issue permits as hereafter provided.

7.4.5.01 Term
Said registration shall be valid for a period of one year from the date of entry, but each applicant must obtain and display a daily permit for each day that the applicant sells or solicits in the Town.

7.4.5.02 Daily Permit
The applicant may obtain the daily permit from the Town Clerk on the business day prior to the day the applicant sells or solicits in the Town, or on the day the applicant sells or solicits in the Town. The Town Clerk shall clearly indicate on said permit the date for which it is valid. No person shall sell or solicit in the Town unless that person displays a valid daily permit.

7.4.5.03 Revocation
Registration and permits are subject to subsequent revocation as provided in Sec. 7.4.7.02 below.

7.4.6 Bond.
Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Ozaukee County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the State of Wisconsin, shall file with the Clerk a surety bond for a term of

one year from the date of issuance of license, running to the Town, in the amount of \$5,000 with surety acceptable to the Town Clerk, conditioned that the applicant comply with all applicable ordinances of the Town and statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of the Town that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the clerk of court in which suit is commenced and be relieved of all further liability.

7.4.7 Investigation.

7.4.7.01 Referral

Upon receipt of each application, the Town Clerk may refer it immediately to law enforcement agencies serving the Town which may make and complete an investigation of the statements made in such registration.

7.4.7.02 Denial

The Town Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; 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; 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; or the applicant failed to comply with any applicable provision of this ordinance.

7.4.8 Appeal.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of Secs. 68.01 through 68.16, Wis. Stats.

7.4.9 Prohibited Practices.

A direct seller shall be prohibited from:

- (A) calling at any dwelling or other place between the hours of sunset and 9:00 a.m. except by appointment; or
- (B) calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; or
- (C) calling at the rear door of any dwelling place; or
- (D) remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (E) 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/she represents.
- (F) A direct seller is required to wear at all times while selling a visible name tag furnished by the Town that shall identify the seller by name and the name of the company for which he/she is selling.
- (G) 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.

- (H) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (I) 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 one-hundred-foot radius of the source.
- (J) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

7.4.10 Disclosure Requirements.

- (A) After initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell, in addition to wearing the name tag required in Section 7.4.9(F).
- (B) 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 said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Secs. 423.203(1)-(3), Wis. Stats.
- (C) 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, whether full, partial or no advance payment is made, 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.

7.4.11 Records.

Law enforcement officers shall report to the Town Clerk all convictions for violation of this chapter and the Town Clerk shall note any such violation on the record of the registrant convicted.

7.4.12 Revocation of Registration.

- (A) Registration may be revoked by the Town 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 chapter 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; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Permit No. _____

Application for Direct Seller's Permit in the Town of Grafton
OZAUKEE COUNTY SHERIFF'S DEPARTMENT WILL CONDUCT A RECORDS CHECK.
THERE IS A FEE OF \$12 FOR EACH RECORDS CHECK
APPLICATION WILL BE REJECTED AND FEE FORFEITED IF APPLICATION
CONTAINS MATERIAL OMISSIONS OR MATERIALLY INACCURATE STATEMENTS

NAME OF ORGANIZATION _____

ADDRESS OF ORGANIZATION _____

PHONE # (+ AREA CODE) _____

DESCRIPTION OF GOODS OR SERVICES OFFERED _____

DATE OF SALE/S _____ PLACE OF SALE/S _____

OWNER/LEAD SUPERVISOR FOR THIS AREA

NAME _____

First M.I. Last Maiden Name

DATE OF BIRTH _____ SOCIAL SECURITY NO. _____

HOME ADDRESS _____

PHONE # (+AREA CODE) _____

PLACE WHERE APPLICANT CAN BE CONTACTED FOR AT LEAST SEVEN (7) DAYS AFTER LEAVING GRAFTON, WI _____

PHONE # (+AREA CODE) _____

HAS A SIMILAR LICENSE BEEN ISSUED TO YOU IN WISCONSIN? IF SO, LIST THE COMMUNITIES WHERE YOU HAVE CONDUCTED SALES _____

WHAT OTHER COMMUNITIES HAVE YOU OPERATED IN WITHIN THE LAST SIX (6) MONTHS? (Outside of Wisconsin) _____

DO YOU CURRENTLY HOLD AN AUCTIONEER'S LICENSE IN THE STATE OF WISCONSIN?
_____ YES _____ NO

Table of Authorities for Title 7 - Licensing and Regulation, Chapter 4 - Direct Sellers

Statutes

423.203 6
423.203(1)-(3)..... 6
440.51 3
68.01 through 68.16..... 5

Town Code

7.4.7.02 4
7.4.9(F) 6

Index to Title 7 - Licensing and Regulation, Chapter 4 - Direct Sellers

Agent for Service of Process 4
agricultural products 2
Appeal..... 5
Application 3
auction sale 3
bakery goods..... 2
Bond..... 4
charitable organization..... 2, 3, 5
Charitable Organization..... 2
Clerk 2, 3, 4, 5, 6
Daily Permit..... 4
dairy products 2
Definitions 2
Denial..... 5
direct seller..... 2, 3, 4, 5, 6
Direct Seller 2
Disclosure Requirements 6
Documentation Required 3
driver's license 3
Exemptions 2
fuel 2
Goods..... 2
Investigation 5
newspapers..... 2
order of any court..... 3
permanent merchant..... 2, 3
Permanent Merchant..... 2
Permits 4
Person 2
Prohibited Practices 5
Records 6
Referral 5
Registration Fee..... 4
Registration Procedure..... 3
Registration Required 2
Revocation 4
Revocation of Registration 6
Term..... 4
Town Board 4, 5, 6
veteran..... 3
wholesale to dealers 2