

TOWN OF MINOCQUA

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PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS Registration Application

REGISTRATION FEE: \$100.00 / DAY

ORD. CODE CH. 14, ARTICLE VI

Full Name of Applicant: _____

Permanent Address: _____

Telephone Number: _____ Alternate Telephone: _____

Age: _____ Height: _____ Weight: _____ Color of Hair: _____ Color of Eyes: _____

Proposed sale date(s): _____ Business hours: _____

Temporary address and telephone number from which business will be conducted, if any: _____

Nature of the business to be conducted and a brief description of the goods or services offered: _____

Name, address and telephone number of person or company whose merchandise is being sold or solicited for: _____

Proposed method of delivery of goods, if applicable: _____

Make, model and license number of any vehicle to be used by the applicant in the conduct of business: _____

Last three cities, villages and towns (include state) where applicant conducted similar business:

1) _____ Date(s): _____

2) _____ Date(s): _____

3) _____ Date(s): _____

Place where applicant can be contacted for at least seven days after leaving this town: _____

Has applicant ever been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years? _____ YES _____ NO If yes, complete the following:

Date of conviction: _____ Place of conviction: _____

Explain the nature of the offense: _____

Applicant shall also present to town clerk for examination:

- A driver's license or some other proof of identity containing a photographic image of the applicant.*
- 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.*
- A state health officer's, or a physician's, or advanced practice nurse'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 the 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.*
- If leasing space, applicant is also required to obtain a conditional use permit (CUP), in accordance with county ordinances and codes. Such CUP must be applied for through the county planning and zoning office, as well as through the town board for a recommendation to the county, and must be presented to the town clerk at the time of making the application to do business in the town as a direct seller or solicitor.*
- Copy of the state seller's permit.*
- Copy of the lease agreement with owner of property where business is to be conducted.*
- The applicant must file a certificate of insurance and indemnification meeting the requirements set by the town board with the town clerk prior to the issuance of a permit. Should the insurance lapse or otherwise cease to be in force, the permit shall be considered invalid.*

NOTICE: A BACKGROUND CHECK WILL BE CONDUCTED ON ALL APPLICANTS PRIOR TO APPROVAL OF REGISTRATION.

APPLICANT STATEMENT: I hereby appoint the town clerk of the Town of Minocqua as my agent to accept service of process in any civil action brought against me arising out of any sale or service performed by me in connection with my direct sales activities, in the event I cannot, after reasonable effort, be served personally. I also declare by this statement that I have been given the opportunity to review the rules and regulations contained within the Town of Minocqua General Code of Ordinances, Article VI, Sec. 14.312-14.324.

Applicant signature accepting above Statement: _____

I (Applicant) hereby acknowledge that I understand the contents of this Application and have not made any material omissions or materially inaccurate statement in the Application. I will not make any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales or solicitation.

Signature of Applicant: _____ Date: _____

REGISTRATION FEE:
\$100.00 PER DAY

Subscribed and sworn before me this _____ day of _____, 20____

Roben A. Haggart, Minocqua Town Clerk
Date Fee Paid: _____ Amount Paid: _____ Date Approved: _____

GENERAL CODE OF ORDINANCES – TOWN OF MINOCQUA

CHAPTER 14. ARTICLE VI.

PEDDLERS, SOLICITORS, CANVASSERS AND TRANSIENT MERCHANTS*

* **State Law References:** Transient merchant, Wis. Stats. § 66.0423; contracts requiring warning, Wis. Stats. § 241.27; consumer rights, Wis. Stats. § 423.101 et seq.; statewide peddler's license for ex-soldiers, Wis. Stats. § 440.51.

Sec. 14-312. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable organization means and shall include any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.

Direct seller means any individual who, for himself, or for a partnership, association or corporation, sells goods or services or takes sales orders for the later delivery of goods or services, at any location other than the permanent business place or residence of said individual, partnership, association or corporation and shall include, but shall 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.

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

Peddlers means and shall include any person, whether a resident of the town or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

Permanent merchant means a direct seller who, for at least one year prior to the consideration of the application of this article to said merchant:

- (1) Has continuously operated an established place of business in this town.
- (2) Has continuously resided in this town and now does business from his residence.

Solicitor means any individual who, for himself, or for a partnership, association or corporation, charitable or otherwise, solicits, asks for, or requests contributions either in the form of cash or merchandise, at any location other than the permanent business place or residence of said individual, partnership, association or corporation.

Town clerk means the town clerk of Minocqua, Wisconsin.

Transient merchant means and shall include any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the town or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said town and who, in furtherance of such

purpose hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodginghouses, apartments, shops, or any street, alley or other place within the town for exhibition and sale of such goods, wares and merchandise, either privately or at public auction; provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader or auctioneer.

(Code 1997, § 11.03(2))

State Law References: Definition of transient merchant, Wis. Stats. § 66.0423(1)(b).

Sec. 14-313. Registration required.

It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations within the town without being registered for that purpose as provided herein. It shall, likewise, be unlawful for any direct seller or solicitor to sell to a permanent merchant within the town without first being registered for that purpose as further provided herein. No application will be issued permitting sales or solicitations during festivals, holidays or chamber-sponsored events.

(Code 1997, § 11.03(1))

Sec. 14-314. Exemptions.

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

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (2) Any person selling goods at wholesale to dealers in such goods.
- (3) Any state resident selling produce or other perishable products at retail or wholesale.
- (4) 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 the county and who delivers such goods in their regular course of business.
- (5) 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.
- (6) 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.
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
- (8) 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.
- (9) 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 proof that such charitable organization is registered under Wis. Stats. § 440.41. Any charitable organization not registered under said statute or which is exempt from that statute's registration requirements, shall be required to register under this article.

- (10) Any person who claims to be a permanent merchant, but against whom a complaint has been made to the clerk that such person is a transient merchant; provided that there is submitted to the 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 the complaint was made.

- (11) Any person or group participating in a special event sanctioned by the town.

(Code 1997, § 11.03(3))

Sec. 14-315. Registration--Information.

Applicants for registration must complete and return to the town clerk a registration form as shall be furnished by the town clerk which shall require the following:

- (1) Name, permanent address and telephone number.
- (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 or solicitor represents or is employed by, or whose merchandise is being sold or solicited for.
- (4) Temporary address and telephone number from which business will be conducted, if any.
- (5) Nature of the 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 any vehicle to be used by the applicant in the conduct of his business.
- (8) Last cities, villages and towns, not to exceed three, where the applicant conducted similar business.
- (9) Place where the applicant can be contacted for at least seven days after leaving this town.
- (10) Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(Code 1997, § 11.03(4))

Sec. 14-316. Same--Proof of identity, certificates, permits, lease agreement and insurance.

Applicants shall present to town clerk for examination:

- (1) A driver's license or some other proof of identity containing a photographic image of the applicant.
- (2) 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.
- (3) A state health officer's, or a physician's, or advanced practice nurse'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 the 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.
- (4) The applicant is also required to obtain a conditional use permit (CUP), in accordance with county ordinances and codes. Such CUP must be applied for through the county planning and zoning office, as well as through the town board for a recommendation to the county, and must be presented to the town clerk at the time of making the application to do business in the town as a direct seller or solicitor.
- (5) Copy of the state sellers permit.
- (6) Copy of the lease agreement with owner of property where business is to be conducted.
- (7) The applicant must file a certificate of insurance and indemnification meeting the requirements set by the town board with the town clerk prior to the issuance of a permit. Should the insurance lapse or otherwise cease to be in force, the permit shall be considered invalid.

(Code 1997, § 11.03(5))

Sec. 14-317. Same--Fee; procedure.

- (a) At the time the registration is returned, a fee of \$100.00 for each day the applicant wishes to do business in the town as a direct seller or solicitor, shall be paid to the town clerk.
- (b) The applicant shall sign a statement appointing the town clerk as 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.
- (c) Upon payment of said fee and the signing of said statement, the town clerk shall, with town board approval, register the applicant as a direct seller or solicitor and date the entry. Said nontransferable registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in subsection (d) of this section.
- (d) None of the registration fee provided for by this section shall be applied, as to occasion an undue burden, upon interstate commerce. In any case where a registration fee is believed by a registrant for registration to place an undue burden upon such commerce, the registrant may apply to the town clerk for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed registration fee. The registrant shall, by affidavit and supporting testimony, show his method of business and the gross

volume of business and such other information as the town clerk shall deem necessary in order to determine the extent, if any, of undue burden on such commerce. The town clerk shall then conduct an investigation, comparing the registrant's business with other businesses of like nature and shall make findings of fact from which the town clerk shall determine whether or not the fee fixed by this section is unfair, unreasonable or discriminatory as to the registrant's business and shall fix as the registration fee for the registrant, an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the town clerk shall have the power to use any method which will ensure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by this section.

(Code 1997, § 11.03(6))

Sec. 14-318. Investigation of applicant; fee; conditions for refusal of application.

(a) Upon receipt of each application, the town clerk shall refer it immediately to the chief of police, who shall make a complete investigation of the statements made in such registration. The applicant will pay up to \$10.00 to the town to cover the cost incurred for such investigation.

(b) The town clerk shall refuse to register the applicant if it is determined, pursuant to the investigation in subsection (a) of this section, 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 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; or

(4) The applicant failed to comply with any applicable provision of section 14-316.

(Code 1997, § 11.03(7))

Sec. 14-319. Appeal.

Any person denied registration may appeal the denial through the appeal procedure as may be provided by ordinance of the town board or, if none has been adopted, under the provisions of Wis. Stats. §§ 68.07--68.16.

(Code 1997, § 11.03(8))

Sec. 14-320. Prohibited practices.

A direct seller or solicitor shall be prohibited from:

- (1) Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m., except by appointment;
- (2) Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;

- (3) 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.
- (4) Misrepresenting or making false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purposes of the direct seller or solicitor's visit, the direct seller or solicitor's identity or the identity of the organization the direct seller or solicitor represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered or funds solicited 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.
- (5) Impeding 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.
- (6) Making any loud noises or using any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside of a 100-foot radius of the source.
- (7) Allowing rubbish or litter to accumulate in or around the area in which business hereunder is being conducted.
- (8) Sleeping or living on the premises where business is to be conducted.
(Code 1997, § 11.03(9); Ord. of 10-11-2005)

Sec. 14-321. Disclosure requirements.

(a) After the initial greeting and before any other statement is made to a prospective customer, a direct seller or solicitor shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

(b) If any sale of goods is made by a direct seller or solicitor, or any sales order for the later delivery of goods or services is taken by the seller or solicitor, the buyer shall have the right to cancel said transaction if it involved the extension of credit or is a cash transaction of more than \$25.00 in accordance with the procedure as set forth in Wis. Stats. § 423.203.

(c) If the direct seller or solicitor 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 direct seller or solicitor, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
(Code 1997, § 11.03(10))

State Law References: Consumer rights, Wis. Stats. § 423.101 et seq.

Sec. 14-322. Records.

The chief of police shall report to the clerk all convictions for violation of this article and the clerk shall note any violation on the record of the registrant so convicted.
(Code 1997, § 11.03(11))

Sec. 14-323. 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 article 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 the hearing and a statement of the facts upon which the hearing will be based.

(Code 1997, § 11.03(12))

Sec. 14-324. Penalty.

(a) Any person, partnership, corporation, or other legal entity convicted of violating any provision of this article for the first time shall pay a forfeiture of not less than \$50.00 nor more than \$200.00, plus all applicable surcharges, assessments and costs plus costs of prosecution. Each violation shall constitute a separate offense.

(b) Any person, partnership, corporation or other legal entity convicted of violating any provision of this article for the second time shall pay a forfeiture of not less than \$200.00 nor more than \$400.00, plus all applicable surcharges, assessments and costs, plus costs of prosecution.

(c) Any person, partnership, corporation or other legal entity convicted more than twice of violating any provision of this article shall pay a forfeiture of not less than \$400.00 nor more than \$600.00, plus all applicable surcharges, assessments and costs, plus costs of prosecution. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

(Code 1997, § 11.03(13))