

ORDINANCE # 24-01 (Amended)

AN ORDINANCE AMENDING CHAPTER 250 DIRECT SELLER

§250-1 Definitions.

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

CHARITABLE ORGANIZATION

Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such and includes an organization that is described in Section 501(c)(3) of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code.

DIRECT SELLER

Any individual who, for their selves, 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, 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.

MERCHANDISE

Includes personal property of any kind and shall include merchandise, goods or materials provided incidental to services offered or sold. The sale of merchandise includes donations requires by the seller for the retention of goods by a donor or prospective customer.

PEDDLERS

Includes any person, whether a resident of the Village of Campbellsport or not, who goes from house to house, place to place, or street to street conveying or transporting goods, wares, merchandise, offering or exposing the same for sale, or making sales and delivering articles to purchasers. It shall not include vendors who distribute their products to regular customers on established routes.

PERMANENT MERCHANT

Any person who, for at least one year prior to the consideration of the application of this chapter to said merchant, has continuously operated an established place of business in the local trade area among the

communities bordering the place of sale or has continuously resided in the Village and now does business from their residence.

SOLICITORS

Includes any one or more of the following:

- A. Selling or offering for sale or taking or attempting to take orders for the sale of merchandise, goods, or services of any kind.
- B. Selling or offering for sale or taking or attempting to take orders for books, magazines, periodicals, newspapers and every other type or kind of publication.
- C. Requesting contributions, directly or indirectly, on the plea or representation that such contributions will be used for a charitable or religious purpose.

TRANSIENT MERCHANT

Any individual who engages in the retail sale of merchandise at any place in this state temporarily and who does not intend to become and does not become a permanent merchant of such place. For purposes of this chapter, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitute the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

§250-2 Registration required.

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

§250-3 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 merchandise;
- 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 the county and who delivers such goods in his regular course of business;
- E.** Any person who has an established place of business where the merchandise being sold is 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 merchandise;
- 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 direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under §202.12, Wis. Stats., or which is exempt from the statute's registration requirements, shall be required to be licensed under this chapter;
- J.** Any person who claims to be a permanent merchant, but against whom a complaint has been made to the Village Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the Village Clerk-Treasurer proof that such person has leased for at least one year, or purchased, the premises from which they are conducting business, or proof that such person has conducted such business in the Village for at least one year prior to the date the complaint was made.
- K.** Any individual licensed by an examining board as defined in §15.01(7), Wis. Stats.
- L.** Transient merchants while doing business at a special event, march or public assembly as authorized by the Village Board.
- M.** Any person exempt by §440.51, Wis. Stats.
- N.** Minors under 18 years of age who are residents of the Village.

§250-4 Registration filing; required information; processing fee.

A. Applicants for license must complete and return to the Village Clerk-Treasurer a registration form furnished by the Village 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 merchandise offered, and any 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 their business;
- (8) Most recent cities, villages, 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 the Village;
- (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.

B. Applicants shall present to the Village 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 the applicant's business requires use of weighing and measuring devices approved by state authorities;
- (3) A state health officer's certificate where the applicant's business involves the handling of food or clothing and is required 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 registration is made.

C. At the time the registration form is returned, a fee set by resolution of the Village Board shall be paid to the Village Clerk-Treasurer to cover the cost of processing such license.

D. The applicant shall sign a statement appointing the Village Clerk-Treasurer 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

licensee in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

E. Upon payment of said fee and the signing of said statement, the Village Clerk-Treasurer shall issue a license to the applicant as a direct seller and date the entry. The license shall be valid for a period of 90 days from the date of entry, subject to subsequent refusal as provided in **§250-5(B)**.

§250-5 Investigation of application.

A. Upon receipt of each application, the Village Clerk-Treasurer may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such application.

B. The Village Clerk-Treasurer shall refuse to issue a license to the applicant if it is determined, pursuant to the investigation above of this section, 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 **§240-4**.

§250-6 Appeal.

Any person refused or denied a license 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 §§68.07 through 68.16, Wis. Stats.

§250-7 Prohibited practices.

A. Prohibited practices.

- 1.** A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 7:00 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 their visit, their identity or the identity of the organization they represent. A charitable organization direct seller shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the merchandise.

3. 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.
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 they are conducting business.

§250-8 Disclosure requirements.

A. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose their name, the name of the company or organization they are affiliated with, if any, and the identity of merchandise or services they offer to sell.

B. If any sale of merchandise 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 §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 §423.203(1) (a), (b) and (c), (2) and (3), Wis. Stats.

C. If the direct seller takes a sales order for the later delivery of goods, they 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.

§250-9 Report and record convictions.

The Chief of Police shall report to the Village Clerk-Treasurer all convictions for violation of this chapter and the Village Clerk-Treasurer shall note any such violation of the record of the registrant convicted.

§250-10 Revocation of license.

A. A license may be revoked by the Village Board, after notice and hearing, if the licensee made any material omission or materially inaccurate statement(s) in the application for license; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; or 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 or pursuant to **§250-4(D)** above on the licensee 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.

§250-11 Violations and penalties.

In addition to the suspension or revocation of any license issued under this chapter, and except where otherwise specifically provided, any person found to be in violation of any provisions of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in **§1-4** of this Code.

Attest: _____

Angel Rettler, Clerk-Treasurer

By: _____

Thomas Dornbrook, President

Aye: _____ Nay: _____