

**§ 152-5. Direct sellers.**

**A.** License required. No direct seller, or an employee of a direct seller, shall engage in direct sales within the City without being licensed for that purpose as provided herein.

**B.** Definitions. As used in this section, the following terms shall have the meanings indicated:

**CLERK**

The City Clerk.

**DIRECT SELLER**

A person who sells goods or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of such person, partnership, association or corporation, and failure to obtain approval of the plan of operation required hereunder shall be grounds for license revocation.

**[Amended 6-19-2001 by Ord. No. 2142]**

**GOODS**

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

**PERMANENT MERCHANT**

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 this City or has continuously resided in this City and now does business from his residence.

**C.** Exemptions. The following shall be exempt from all provisions of this section:

**(1)** Any person delivering newspapers or selling newspaper subscriptions, 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 person selling agricultural products which such person has grown.

**(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 this county and who delivers such goods in his or her regular course of business.

**(5)** Any person who has an established place of business in the City 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.

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

(7) 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.

(8) Any person who claims to be a permanent merchant but against whom 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/she is conducting business or proof that such person has conducted such business in this City for at least one year prior to the date complaint was made.

(9) Any ex-soldier of the United States and any other disabled person who meets the requirements of § 440.51, Wis. Stats.

(10) Any person selling Christmas trees.

(11) Boy Scouts or Girl Scouts soliciting money or donations of money.

(12) Any students, up to and through the 12th grade of primary or secondary school, who reside in Milwaukee and Waukesha Counties, in connection with authorized school programs and activities.

(13) Any charitable organization, society, association or corporation which is recognized as a tax-exempt charitable organization by federal and state authorities. Such charitable organizations, societies, associations or corporations shall be regulated as provided in § [152-6](#) of this chapter.

**[Amended 1-23-2007 by Ord. No. 2335]**

D. Registration for license.

(1) Application. Applicants for a license shall complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:

(a) Name, including middle initial, permanent address and telephone number and, if any, temporary address and telephone number.

(b) Age, date of birth, height, weight and color of hair and eyes.

(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 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 the applicant in the conduct of his/her business.

(h) Last cities, villages and/or Towns, not to exceed three, where the applicant conducted similar business.

(i) Place where the applicant can be contacted for at least seven days after leaving this City.

(j) Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business, or any crime or ordinance violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, assault or sexual assault, within the last five years, and a detailed explanation of the nature of the offense and place of conviction.

(2) Required documents. Applicants shall present the following to the Clerk for examination:

(a) A driver's license, the number of which shall be recorded by the Clerk, 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) (Reserved) *Editor's Note: Former Subsection D(2)(c), pertaining to a state health officer's certificate, was repealed 8-28-2007 by Ord. No. 2355.*

(d) The applicant shall be given a copy of this section and shall sign a receipt therefor.

(3) Fee. At the time the registration is returned, a fee to cover the cost of processing the registration, as well as the required annual license fee, shall be paid to the Clerk. Such fees are stated in § 152-2 of this chapter.

(4) Liability. The applicant shall sign a statement appointing the Clerk his/her 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 in the event the applicant cannot, after reasonable effort, be served personally.

#### E. Investigation.

(1) Chief of Police to conduct. Upon receipt of each application, the Clerk will refer it immediately to the Chief of Police, who will make and complete an investigation of the statements in such application within one week after the application has been filed with the Chief of Police. The Chief of Police shall endorse his findings upon the application and deliver the application to the City Clerk, who shall issue or deny the license in accordance with such findings. When the license is issued, the applicant shall pay an annual license fee as set by the Common Council, and the license shall be valid for one year from the date of issue.

(2) Denial of license. The Clerk shall refuse to issue a license to the applicant if it is determined, pursuant to the investigation above, that:

(a) The application contains any material omission or materially inaccurate statement.

(b) 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.

(c) The applicant was convicted of a crime, statutory 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 is a violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, theft, assault and sexual assault.

(d) The applicant failed to comply with any applicable provision of Subsection D(2) above.

F. Appeals. Any person denied a license may appeal the denial to the City Council.

G. Regulation of direct sellers.

(1) Prohibited practices.

(a) A direct seller shall be prohibited from calling at any dwelling or other place between 8:00 p.m. and 9:00 a.m., except by appointment.

**[Amended 8-12-2008 by Ord. No. 2384]**

(b) 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/her visit, his/her identity or the identity of the organization he/she represents.

(c) 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.

(d) 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.

(e) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(f) No permit holder under this section shall call at any dwelling or in any way solicit at a dwelling where a sign has been posted indicating that solicitation is generally not permitted or is restricted to particular hours. Such sign shall be placed either below the house street number or attached to or suspended from the mail box.

(2) Disclosure requirements.

(a) After the 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.

(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 the 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, he/she 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 guaranty or warranty is provided and, if so, the terms thereof.

(d) Any person licensed under this section shall carry his license with him while engaged in licensed activities and shall display such license to any police officer or citizen upon request.

H. Records. The Chief of Police shall report to the Clerk all convictions for violation of provisions of this section and the Clerk shall note any such violation on the record of the registrant convicted.

I. Revocation of license.

(1) Registration may be revoked by the City Council, 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 provisions 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 or is a violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, theft, assault and sexual assault.

(2) 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.

J. Minor employment laws adopted. Except as otherwise specifically provided in this chapter, the statutory provisions in §§ 103.21, 103.23 and 103.25, Wis. Stats., describing and defining regulations with respect to the employment of minors are hereby adopted and by reference made a part of this chapter as if fully set forth herein.

K. Use and occupancy. If a direct seller shall occupy or use vacant land or a building, use and occupancy permits shall be obtained pursuant to the provisions of Chapter 275, Zoning, of this Code.

L. Term. The term of the direct seller license shall be one year from the date of its issuance. Any renewal of the license shall require reapplication and review as provided for hereunder.

**[Added 8-28-2007 by Ord. No. 2355]**