

CHAPTER 111: DIRECT SELLERS AND SOLICITORS

Section

- 111.01 Definition
- 111.02 Exemptions
- 111.03 Registration required
- 111.04 Registration
- 111.05 Investigation
- 111.06 Appeal
- 111.07 Regulation of direct sellers
- 111.08 Revocation of registration

- 111.99 Penalty

(C) Any person selling agricultural products which such person has grown;

(D) 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 the person;

(E) Any person who has had or one who represents a company which has had a prior business transaction within the last 12 months, such as a prior sale or credit arrangement, with the prospective customer;

(F) Any person under the age of 18 years who is a resident of the city;

(G) 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;

(H) Any employee, officer, or agent of a charitable, fraternal, or philanthropic organization located within the city who engages in business for or on behalf of the organization.
(Ord. 138, passed 5-6-91)

§ 111.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DIRECT SELLER. Any person offering goods or services primarily for personal, family, or household use for sale or lease away from the sellers place of business.
(Ord. 138, passed 5-6-91)

§ 111.02 EXEMPTIONS.

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

(A) Any person delivering newspapers, fuel, dairy products or bakery goods and groceries to regular customers on established routes;

(B) Any person selling goods at wholesale to dealers in such goods;

§ 111.03 REGISTRATION REQUIRED.

It shall be unlawful for any direct seller to engage in business within the city without being registered for that purpose as provided herein.
(Ord. 138, passed 5-6-91) Penalty, see § 111.99

§ 111.04 REGISTRATION.

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

(1) Name, permanent home and business address, and telephone number;

(2) Age, height, weight, color of hair and eyes, social security number, and driver's license number;

(3) Name, address, and telephone number of the person, firm, association, or corporation that the seller represents or is employed by or whose merchandise is being sold, together with credentials establishing the exact relationship;

(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 offered and any services offered and the length of time for which the right to do business is desired;

(6) The source of the supply of the goods or property proposed to be sold and where such goods or products are located at the time the application is filed and the proposed method of delivery;

(7) Make, model, and license number of any vehicle to be used by applicant in the conduct of his or her business;

(8) The last cities, villages, or towns, not to exceed three, where the applicant carried on business immediately preceding the date of application and the address from which such business was conducted in those municipalities;

(9) The street address, post office address, and telephone number of a place where applicant can be contacted for at least 60 days after leaving this city;

(10) A statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's direct seller's business within the last five years, the nature of the offense and the place of conviction;

(11) The names of at least two property owners of Buffalo County, Wisconsin who will certify as to the applicant's good character and business respectability or in lieu of the name of the references, such other available evidence as will enable an investigator to properly evaluate such character and business as responsible.

(B) The applicant shall present to the Clerk 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 seller of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities; and

(3) 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 the applicant is apparently free from any contagious or infectious diseases, dated not more than 90 days from the date of the application for license is made.

(Ord. 138, passed 5-6-91)

§ 111.05 INVESTIGATION.

(A) There shall be a waiting period of 48 hours excluding weekends and holidays from the time of the application for the license to the time the license is issued to allow investigation.

(B) Upon receipt of each application, the Clerk may refer it immediately to the Chief of Police or his or her designee who may make and complete an

investigation of the statements made in such registration.

(C) The Clerk 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 authorities in the last cities, villages, and towns in which the applicant conducted similar business; or

(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. (Ord. 138, passed 5-6-91)

§ 111.06 APPEAL.

Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit or license may appeal to the Common Council. Such appeal shall be taken by filing with the Common Council within 14 days after notice of the action complained of a written statement setting forth fully the grounds for the appeal. The Common Council shall set a time and place for hearing on the appeal, and notice of the hearing shall be given to the applicant.

(Ord. 138, passed 5-6-91)

§ 111.07 REGULATION OF DIRECT SELLERS.

(A) *Prohibited practices.*

(1) A direct seller shall be prohibited from:

(a) Calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m., except by appointment;

(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;

(c) Calling at the rear door of any dwelling place;

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

(B) *Disclosure requirements.*

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

(2) If the direct seller takes a sales order for the later delivery of goods, he or 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 guarantee or warranty is provided and, if so, the terms thereof.

(Ord. 138, passed 5-6-91) Penalty, see § 111.99

§ 111.08 REVOCATION OF REGISTRATION.

(A) Registration may be revoked by the 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 provision of this chapter or other ordinances or section of this code applicable to direct sellers or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage indirect selling.

(B) Written notice of the hearing shall be served on the registrant at least 72 hours prior to the time set for the hearing; the notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

(Ord. 138, passed 5-6-91)

§ 111.99 PENALTY.

Any person or organization violating any provision of this chapter for which a specific penalty is not provided shall be subject to the penalty as established by § 10.99.

(Ord. 138, passed 5-6-91)