

Chapter 4

Transient Merchants

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Sec. 7-4-1 Registration Required.

It shall be unlawful for any transient merchant to engage in direct sales or to engage in door-to-door solicitation to purchase items of value within the Village of Combined Locks without being registered for that purpose as provided herein.

Sec. 7-4-2 Definitions.

In this Chapter:

- (a) **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. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes 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.

- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in Outagamie County; or
 - (2) Has continuously resided in the Village and now does business from his/her residence.
- (c) **Merchandise.** Shall include 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 required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Administrator.** The Village of Combined Locks Chief of Police.
- (f) **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.
- (g) **Solicitor.** Any person engaged in direct solicitation who:
 - (1) Seeks donations of money or other contributions of items of value for an organization or cause; or
 - (2) Sells items on behalf of an organization or cause but asks for a contribution of greater value than the item being sold.
 - (3) Seeks to purchase property of value from residential property owners.

Sec. 7-4-3 Exemptions.

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown;
- (d) **Deliveries By Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or 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) **Prior Sales Transactions.** 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) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** 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) **Charitable Organizations; Limited Exemption.** 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 Chief of Police proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Chief of Police that such person is a transient merchant, provided that there is submitted to the Chief of Police proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed By Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minors.** Minors under eighteen (18) years of age who are residents of the Village of Combined Locks, Kimberly or Combined Locks or the City of Kaukauna.

Sec. 7-4-4 Registration.

- (a) **Registration Information.** Applicants for registration must complete and return to the Village of Combined Locks Police Department a registration form furnished by the Police Department which shall require the following information:
 - (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant 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 or solicited, and any services offered;

- (6) Proposed method of delivery of merchandise, if applicable;
 - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;
 - (8) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
 - (9) Place where applicant can be contacted for at least seven (7) days after leaving this Village;
 - (10) 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 (5) years, the nature of the offence and the place of conviction.
- (b) **Identification and Certification.** Applicants shall present to the Police Department 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 applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where 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 ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
- (1) At the time of filing applications, a total fee of Thirty Dollars (\$30.00) shall be paid to the Village of Combined Locks Police Department to cover the cost of investigation of the facts stated in the applications and for processing said registration. Each member of a group must file a separate registration form. The registration fee is meant to cover the cost of investigation, CIB charges in the amount of Five Dollars (\$5.00), and costs of required photo identification in the amount of Five Dollars (\$5.00) [as provided Subsection in (d) below].
 - (2) The applicant shall sign a statement appointing the Village of Combined Locks Police Department his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale, solicitation, 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. Registration may be denied for failure to comply with this requirement.
 - (3) Upon payment of said fees, the signing of said statement, and obtaining a photo identification card as provided in Subsection (d) below, the Village of Combined Locks Police Department shall register the applicant as a transient merchant, peddler or solicitor and date the entry.
- (d) **Photo Identification Required.** A photo identification card will be issued by the Combined Locks Police Department to each person licensed as a peddler, transient

merchant, or solicitor, unless specifically exempt by ordinance. The photo identification card must be worn, and plainly visible at eye level, whenever a person is engaging in activities of being a peddler, transient, merchant, or solicitor within the Village of Combined Locks.

- (e) **Bond.** Every applicant who is not a resident of Outagamie County or who represents a firm whose principal place of business is located outside of the State shall file with the Village of Combined Locks Police Department a surety bond in the amount of Five Hundred Dollars (\$500.00), conditioned that the applicant will comply with all provisions of the ordinances of the Village and the State laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on such bond may be brought by any person aggrieved.
- (f) **License; Fees.** Except as provided by Section 7-4-3, no person shall conduct any activity as a transient merchant, peddler, or solicitor without a license unless specifically exempted by ordinance without a license. Every applicant for a license shall pay a license fee as follows:
 - (1) **Annual License.** The fee for an annual license shall be Fifty Dollars (\$50.00) which shall be paid to the Police Department. Such license shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if it is issued on or after July 1 of any year. (Note: This waiting period is necessary in order to complete the investigation process).
 - (2) **Daily License.** The daily license fee shall be Five Dollars (\$5.00) per day which shall be paid to the Police Department. The license shall set forth the exact days on which such business may be carried out.
- (g) **Solicitors.** Solicitors seeking to purchase items of value from residential property owners shall comply with all disclosure and registration requirements above, and shall pay the fees as outlined. Solicitors of funds or donations for charitable or other organizations shall comply with all disclosure and registration requirements above, and shall pay only the cost of the CIB check [Five Dollars (\$5.00)] and photo identification card [Five Dollars (\$5.00)].

Sec. 7-4-5 Investigation.

- (a) Upon receipt of each application, the Village of Combined Locks Police Department shall conduct an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
- (b) The Village of Combined Locks Police Department shall refuse to register the applicant and issue a permit 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 (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) 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 Section 7-4-4(b) above.

Sec. 7-4-6 Appeal.

Any person denied registration 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 Secs. 68.07 through 68.16, Wis. Stats.

Sec. 7-4-7 Regulation of Transient Merchants; Sales from Private Property; Farm Produce Sales.

(a) **Prohibited Practices.**

- (1) **Sales Prohibited.** A transient merchant or solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 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) **Misrepresentation.** A transient merchant or solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant 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. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) **Use of Public Property; Sales From Private Property.** No transient merchant and no solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Without express approval from the Village Board, sales activities shall not be conducted from a public right-of-way or public parking lot. Sale of items from private property shall only be as permitted by the Village Zoning Code. Other than for occasional garage sales, any person engaged in temporary sales activity from

private property shall be required to first register as required by Sections 7-4-4 and 7-4-5; included in, but not limited to, such regulated activities are sales of Christmas trees, food products, fireworks, art works and sports paraphernalia.

- (4) **Noise.** No transient merchant and no solicitor 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 (100) foot radius of the source.
- (5) **Refuse.** No transient merchant and no solicitor shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) **Disclosure Requirements.**

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise 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 Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
- (3) If the transient merchant takes a sales order for the later delivery of merchandise, 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 guarantee or warranty is provided and, if so, the terms thereof.

(c) **Farm Produce Sold on Public Property.**

- (1) **Sales on Village Streets, Alleys, Sidewalks and Property.** No person may display, market or sell farm or garden produce, on Village streets, alleys, sidewalks or public property within the Village except as allowed under provisions of this Subsection.
- (2) **Definitions.** As used in this Subsection, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
 - a. "Farm or garden produce" is defined as fruits, vegetables, fresh flowers or flowers, shrubs of trees intended for planting.
- (3) **Application for License.** A license to display, market or sell farm or garden produce on Village streets, alleys, sidewalks or public property may be granted by the Village upon proper application being made therefore in accordance with the following conditions and requirements:
 - a. Such license shall be granted only to exhibitors in connection with a special civic function sanctioned by the Village Board.

- b. The term of the license shall commence no earlier than the commencement of the event and extend no later than the last day of the event.
 - c. Any person desiring a license under this Subsection shall, at least fifteen (15) days before the event, file with the Police Department an application which contains the following:
 - 1. The applicant's name and address.
 - 2. The exact time and place of the sale.
 - 3. Whether the applicant will be present and incontinuous attendance at the proposed sale.
 - 4. Whether the applicant has within two (2) years prior to the application conducted or had any connection with a similar sale in the Village or any other place in the County, and if so, to give dates and places of such other sales.
 - d. The Village Board shall designate the place where said display or sale may be conducted when granting any license under this Subsection.
- (4) The license fee in the amount of Twenty Dollars (\$20.00) per event. Each person or group having one (1) stall or exhibit in an event must have a license.

Sec. 7-4-8 Records.

The Police Department shall report to the Administrator all convictions for violations of this Chapter and the Administrator or Police Department shall note any such violation on the record of the registrant convicted.

Sec. 7-4-9 Revocation of Registration.

- (a) Registration may be revoked by the Village 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 or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 7-4-10 Special Event Vending Permit.

- (a) **Permit Required.** There shall be a Five Dollar (\$5.00) per day charge for a special event vending permit. The Village Board will determine whether the applicant qualifies for a special event vending permit. The permit shall set forth the exact dates on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
- (b) **Exclusive Vending Rights During Special Events.**
- (1) During a special event the Village Board may by resolution and after public hearing suspend specifically enumerated restrictions on transient merchants on any street, alley, sidewalk or public square and public park. Alternative rules and procedures may be established by the Village Board for the special event.
 - (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public square or public park, the Village Board may by resolution and after public hearing reserve up to ten (10) days during any vending year when transient merchant permits will not be valid at a particular location and when some or all categories of transient merchant permits will not be valid in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Village Board shall take precedence.
 - (3) For each such specific day during which certain or all vending permits have been declared to be not valid, the Village Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant permit will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of any one (1) location as provided in this subdivision.
 - (4) No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.