



City of Nekoosa
951 Market Street
Nekoosa, WI 54457
715.886.7877 - City Clerk
715.886.7901 - Fax

<p>FEE \$20.00 First week \$5.00 Per Additional Week</p>

Application for Solicitor's Permit

Date: _____

Applicant's Name: _____

Address: _____

D.O.B: _____ Weight: _____ Height: _____

Eyes Color: _____ Hair Color: _____

Driver's License #: _____ State: _____

Social Security #: _____

Employer: _____

Address: _____

Temporary Address: _____

Automobile License #: _____ State: _____

Make: _____ Model: _____ Color: _____ Year: _____

The following goods, merchandise, or services offered for sale: _____

Applicant Signature: _____

Police Chief Approval Signature: _____

City Clerk Approval Signature: _____

Approval Date: _____

City of Nekoosa, WI
Monday, October 1, 2012

§ 12.06. Direct sellers, transient merchants and solicitors.

- (1) Direct sales and solicitations; registration required. It shall be unlawful for any direct seller, transient merchant or solicitor to engage in direct sales or solicitations within the City without being registered and licensed for that purpose, as provided herein.
- (2) Definitions. As used in this section, the following terms shall have the meanings indicated:

APPLICANT

Each individual applying for registration and licensing as a direct seller, transient merchant or solicitor.

CHARITABLE ORGANIZATION

Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation for which there is provided proof of tax-exempt status pursuant to § 501 (c)(3) or (4) of the United States Internal Revenue Code.

DIRECT SELLER

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 not be limited to, peddlers, canvassers and transient merchants. The sale of goods and services includes donations requested or required by the direct seller for the retention of goods or services by a donor or prospective customer.

GOODS

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

PERMANENT MERCHANT

A direct seller or one representing a merchant who, for at least one year prior to the submission of an application pursuant to this section, has continuously operated an established place of business in the City or has continuously resided in the City and now does business from his residence.

REGISTRANT

Each individual registered by the City Clerk.

SOLICITOR

Any individual who, for himself or for any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons other than members of such organization, society, association or corporation.

TRANSIENT MERCHANT

Any person, whether as owner, agent, consignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar or boat, public room in a hotel, lodging house, apartment, shop or any street, alley or other place within the City for the 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 section 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.

(3) Exemptions.

(a) The following shall be exempt from all provisions of this section:

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 farmer or truck gardener selling agricultural products of the farm or garden occupied or cultivated by such person.
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 his 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 represents a company which has had, a prior business transaction such as a prior sale or credit arrangement with a 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.

(b) Charitable organizations registered with the Wisconsin Department of Safety and Professional Services, pursuant to § 440.41, Wis. Stats., shall be exempt from the requirements set forth in Subsections (4)(a) and (c) and (6) below if the organization has provided the individual representing it with credentials stating the name of the organization, the name of the representative and the purpose of the solicitation, and provided further that said individuals complete an application on a form provided by the City Clerk. A license operative for the dates provided to the Clerk shall be issued without charge upon compliance with the foregoing. The Clerk shall then forward the information and notice of the issuance of a license to the Chief of Police.

(c) Any religious organization from which there is provided proof of tax-exempt status, pursuant to § 501(c)(3) of the United States Internal Revenue Code, shall be exempt from the requirements set forth in Subsections (4)(a) and (c) and (6) below. The provisions of Subsection (3)(b) above shall be applicable to such organizations.

(d) Veterans holding special state licenses.

1. Any veteran who holds a special state license, pursuant to § 440.51, Wis. Stats., shall be exempt from the provisions of Subsections (4) and (6) below, provided that such veteran provides the City Clerk with the following information:
 - a. The veteran's name and permanent address.
 - b. The nature of the sales or solicitations.
 - c. Proposed dates and times of sales or solicitations.
2. The City Clerk shall then forward the above information to the Chief of Police.

(4) Registration requirements; application fee.

- (a) Applicants for licenses must complete and return to the City Clerk a registration form furnished by the Clerk.
- (b) Applicants shall present the following items to the City Clerk for examination:
 - 1. A driver's license or some other proof of identity as may be reasonably required.
 - 2. A physician'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 and dated not more than 90 days prior to the date the application for license is made.
- (c) No application shall be processed until the application fee in the amount of \$20 has been paid to the City Clerk to cover the cost of processing said initial application and \$5 per one-week extension.

[Amended by Ord. No. 474]

- (5) Investigation; denial of application.
 - (a) Upon receipt of a completed registration form, the City Clerk shall immediately refer it to the Chief of Police to make an investigation. The Chief of Police or his designee shall complete the investigation and file a report with the Clerk within 72 hours. If, as a result of the investigation required under this section, the applicant's business or character is found to be unsatisfactory, the Chief of Police shall endorse on said application his disapproval and his reasons for the same and return the application to the City Clerk, who shall notify the applicant that his application was not approved and no license will be issued.
 - (b) The City Clerk shall refuse to issue a license to the applicant for any of the following reasons:
 - 1. The application contains any material omission or materially inaccurate statement.
 - 2. 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 solicitation.
 - 3. The applicant failed to comply with any applicable provision of Subsection (4)(b) above.
 - (c) In the event the City Clerk shall refuse to issue the applicant a license, the Clerk shall provide the applicant an opportunity to refute said reasons for denial of the license. After the Clerk has made a final determination, he shall either issue the license or provide the applicant with written reasons for refusing to issue the license.
 - (d) Any person denied application for a license may appeal such action by filing with the Council, within 14 days after written notice of the denial, a written statement requesting a hearing and setting forth the grounds for the appeal. The Council shall set a time and place for the hearing. Written notice of the time and place of the hearing shall be given to the applicant at least 24 hours prior to the time set for the hearing.
- (6) Registration and issuance of license.
 - (a) Upon compliance with the foregoing requirements and filing of a bond, if applicable, the City Clerk shall register the applicant as a direct seller, transient merchant or solicitor and issue a license to the applicant. The license shall be operative for seven consecutive days from the date of issuance.

[Amended by Ord. No. 475]

- (b) Such license shall contain the signature of the City Clerk; the name and address of the direct seller, transient merchant or solicitor; the type of goods or services being sold or the nature of the solicitation; the dates during which the license is operative; and the license number of any vehicle used for sales or solicitation.
 - (c) A registrant shall exhibit his license at the request of any citizen or police officer.
 - (d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of this county, or who is such a resident and represents a business or organization whose principal place of business is located outside the state, shall file with the City Clerk a surety bond for a term of one year from the date of issuance of the license, running to the City in the amount of \$500 with surety acceptable to the Clerk, conditioned that the applicant comply with all applicable ordinances of the City and statutes of the state regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of the City that all money paid as a down payment shall be accounted for and applied according to the representations of the seller, and that the property purchased shall be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the Clerk of Courts in which suit is commenced and be relieved of all further liability.
- (7) Regulation of direct sellers and solicitors.
- (a) Prohibited practices.

1. A direct seller or solicitor shall be prohibited from:

- a. Calling at any dwelling or other place between the hours of 6:00 p.m. and 9:00 a.m., except by appointment.

[Amended by Ord. No. 476]

- b. Calling at any dwelling on Sundays and legal holidays.
 - c. Calling at any dwelling or other place where a sign is displayed bearing the words "No peddlers," "No Solicitors" or words of similar meaning.
 - d. Calling at the rear door of any dwelling place.
 - e. 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 or solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services offered for sale, the purpose of his visit, his identity or the identity of the organization he represents.
3. No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and parking regulations shall be observed. No direct seller or solicitor shall have any exclusive right to any location in the public streets. No direct seller or solicitor shall sell or solicit in any congested area or where the public will be impeded or inconvenienced. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

4. No direct seller or solicitor shall make any loud noises or use any sound-amplifying device to attract customers or donors if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
 5. No direct seller or solicitor shall allow rubbish or litter to accumulate in or around the area in which he is conducting business or making solicitations.
- (b) Disclosure requirements.
1. After the initial greeting and before any other statement is made to a prospective customer or donor, 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.
 2. If any sale of goods or services is made by a direct seller or any sales order for the later delivery of goods or services 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.
 3. If the direct seller 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 seller; and the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (8) Regulation of transient merchants. The provisions of Subsection (7)(b)2 and 3 above shall apply to transient merchants.
- (9) Direct sellers parking regulations. No direct seller shall park his vehicle for the purpose of making sales on any state or federal highway. Parking is permitted on private property with the permission of the owner, in the municipal parking lot between 5th and 7th Streets, and in the municipal parking lot between 8th and 10th Streets. Direct sellers, including farmers and truck gardeners selling their own produce, shall remove their sale facility at the end of each day's activity, said day's activity to run from the hours of 6:00 a.m. to 7:30 p.m.
- (10) Records of violations. The Chief of Police shall report to the City Clerk all convictions for violations of this section, and the Clerk shall note any such violation on the record of the registrant convicted. The Clerk shall note any complaint or report of an alleged violation made by a resident of this City or a police officer.
- (11) Revocation of license.
- (a) The registrant's license 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 or solicitation, violated any provision 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 solicitations.
 - (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 acts or omissions upon which the hearing will be based.