



CITY OF MARINETTE, WI TRANSIENT MERCHANT/SOLICITOR'S APPLICATION

APPLICATION FEE: \$50.00 (PER FAMILY UP TO THREE MEMBERS) PLUS \$50.00 FOR EACH ADDITIONAL APPLICANT

(APPLICANT MUST COMPLY WITH ALL APPLICABLE FEDERAL, STATE & LOCAL LAWS.)

DATE OF APPLICATION: _____ WISCONSIN SELLERS PERMIT NUMBER: _____

APPLICANT NAME: _____
(Last) (First) (Middle Initial)

DATE OF BIRTH: _____ SOCIAL SECURITY NUMBER _____

HOME ADDRESS _____
(Street) (City) (State)

LOCAL ADDRESS _____
(Street) (City) (State)

PROPOSED SALES LOCATION _____

NATURE OF BUSINESS _____

GOODS OR SERVICES TO BE SOLD _____

NAME OF EMPLOYER _____

ADDRESS OF EMPLOYER _____
(Street) (City) (State)

DATES SALES ACTIVITY WILL OCCUR: FROM _____ TO _____

METHOD OF DELIVERY _____

VEHICLE MAKE/MODEL _____ LICENSE NUMBER _____

HAS APPLICANT EVER BEEN CONVICTED OF ANY CRIME, MISDEMEANOR OR VIOLATION OF LOCAL ORDINANCE () YES () NO. IF ANSWER IS YES, NATURE OF OFFENSE

PENALTY ASSESSED _____

LIST THREE CITIES OR VILLAGES WHERE BUSINESS WAS CONDUCTED IMMEDIATELY PRECEEDING THIS APPLICATION:

1. _____ BUSINESS ADDRESS _____
2. _____ BUSINESS ADDRESS _____
3. _____ BUSINESS ADDRESS _____

APPLICANT'S SIGNATURE

MARINETTE MUNICIPAL CODE SECTION 9-4-1 REGULATION OF TRANSIENT MERCHANTS.

(a) REGISTRATION REQUIRED. It shall be unlawful for any transient merchant to engage in sales within the City without being registered for that purpose as provided herein.

(b) DEFINITIONS.

(1)"Transient merchant" means 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 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 State resident.

(2)"Permanent merchant" means any person who, for at least one (1) year prior to the consideration of the application of this ordinance to said merchant:

a. Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or

b. Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

(3)"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 goods by a donor or prospective customer.

(4)"Charitable organization" shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(5)"Clerk" shall mean the City Clerk.

(6)"Family Member" includes immediate family; namely, spouse, son, daughter or parent.

(c) EXEMPTIONS. The following shall be exempt from all provisions of this ordinance:

(1) Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on established routes.

(2) Any person selling merchandise at wholesale to dealers in such merchandise.

(3) Any person selling agricultural products, which the person has grown.

(4) 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

() APPROVED () DENIED BY _____
(CITY OF MARINETTE POLICE CHIEF)

REASON FOR DENIAL _____

delivers such merchandise in their regular course of business.

- (5) 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.
- (6) 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.
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (8) Any person holding a sale required by statute or by order of any court and any person conducting a bonafide auction sale pursuant to law.
- (9) 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 Clerk proof that such charitable organization is registered under Wisconsin Statutes Section 440.41, as amended. Any charitable organization engaging in the sale of merchandise and not registered under Wisconsin Statutes Section 440.41, as amended, or which is exempt from that statute's registration requirements, shall be required to register under this ordinance.
- (10) 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 a least one (1) year, or purchased, the premises from which he/she has conducted business in the market area for at least one (1) year prior to the date the complaint was made.
- (11) Any individual licensed by an examining board as defined in Wisconsin Statutes Section 15.01(7), as amended.
- (12) This ordinance does not apply to transient merchants while doing business at special events authorized by the Common Council.

(d) REGISTRATION.

- (1) Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk, which shall require the following information:
 - a. Name, permanent address and telephone number, and temporary address, if any.
 - b. Age, height, weight, and color of hair and eyes.
 - c. 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.
 - 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 merchandise, and any services offered.
 - f. Proposed methods of delivery of merchandise, if applicable.
 - g. Make, model, and license number of any vehicle to be used by applicant in the conduct of his/her business.
 - h. Most recent cities, villages, towns, not to exceed three (3), where applicant conducted his/her business.
 - i. Place where applicant can be contacted for at least seven (7) days after leaving City.
 - j. 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, and the nature of the offense and the place of conviction.
- (2) Applicants shall present to the Clerk for examination:
 - a. A driver's license 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 applicant's business requires use of weighing and measuring devices approved by State authorities.
 - c. 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 license is made.
- (3) a. Repealed (see MMC 9-13-2 Schedule A).
- b. 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 of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
- c. Upon payment of said fee and the signing of said statement, the Clerk shall register the applicant as a transient merchant and date of entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Section (e)(2) below.

(e) INVESTIGATION.

- (1) Upon receipt of each application, the Clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.
 - (2) The Clerk shall refuse to register the applicant 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 most recent cities, villages, and towns, but 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 (d)(2) above.
- (f) APPEAL. Any person refused or denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council, or if none has been adopted, under the provisions of Wisconsin Statutes Section 68.07 through 68.16, as amended.

(g) REGULATION OF TRANSIENT MERCHANTS.

- (1) Prohibited Practices.
 - a. A transient merchant 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.
 - b. A transient merchant shall not misrepresent or make false, deceptive, or misleading statements concerning the quality, quantity, or characteristics 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 the 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.
 - c. No transient merchant 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 transient merchant 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.
 - e. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- (2) Disclosure Requirements.
 - a. 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.
 - b. If any sale of merchandise is made by a transient merchant, or any offer 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 WI St § 423.203, as amended; 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 WI St § 423.203(1)(a)(b) and (c), (2) and (3), as amended.
 - c. 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.

(h) RECORDS. The Chief of Police shall report to the Clerk all convictions for violation of this ordinance and the Clerk shall note any such violation on the record of the registrant convicted.

(i) REVOCATION AND REGISTRATION.

(1) Registration may be revoked by the Common Council after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in transient sales, violated any provision of this ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling.

(2) Written notice of the hearing shall be served personally or pursuant to (d)(3) above on the registrant at least seventy-two (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) PENALTY. Any person adjudged in violation of any provision of this ordinance shall forfeit not less than Ten Dollars (\$10.00) or more than One Thousand Dollars (\$1,000.00) for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense.