

7.02 DIRECT SELLERS

(1) REGISTRATION REQUIRED. It shall be unlawful for any direct seller to engage in direct sales within the Village of Hilbert without being registered for that purpose as provided herein.

(2) DEFINITIONS: In the ordinance:

(a) "Direct seller" means any individual who, for him-herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, 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, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) "Permanent merchant" means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchant, 1) has continuously operated an established place of business in this village, or 2) has continuously resided in this village and now does business from his-her residence.

(c) "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

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

(e) "Clerk" shall mean the village clerk.

(3) EXEMPTIONS. The following shall be except from all provisions of this ordinance:

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

(b) Any person selling goods at wholesale to dealers in such goods.

(c) Any person selling agricultural products which such person has grown.

(d) 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 their course of business.

(e) 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.

(f) 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) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

(h) 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) 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 Sec. 440.41, Stats. Any charitable organization not registered under Sec. 440.41, Stats., or which is exempt from that statute's registration requirements, shall be required to register under this ordinance.

(j) 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 businesses, or proof that such person has conducted such business in this village for at least one year prior to the date complaint was made.

(4) REGISTRATION.

(a) Applicant 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 address and telephone number, and temporary address, if any.
2. Age, height, weight, color of hair and eyes.

3. 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.

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.

6. Proposed method of delivery of goods, 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, where applicant conducted similar business.

9. Place where applicant can be contacted for at least seven days after leaving the 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 years; the nature of the offense and the place of conviction.

(b) Applicants 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 sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state's 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 90 days prior to the date the application for license is made.

(c) At the time the registration is returned, a fee of \$5.00 shall be paid to the clerk to cover the cost of processing said registration.

(d) 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.

(e) Upon payment of said fee and the signing of said statement, the clerk shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in Section 5(b) below.

(5) INVESTIGATION.

(a) 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.

(b) 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 last cities, villages and towns, not exceeding three, in which the applicant conducted similar business; 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 the applicant failed to comply with the applicable provision of Section 4(b) above.

(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, Stats.

(7) REGULATION OF DIRECT SELLERS.

(a) Prohibited Practices.

1. A direct seller 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. 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. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods 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 goods.

3. 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.

4. 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.

5. No direct seller 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 the 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.

2. 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 said transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in Sec. 423.203, Stats.,; the seller shall give the buyer two copies of a typed or printed notice of the fact. Such notice shall conform to the requirements of Secs. 423.203(1)(a)(b) and (c), (2) and (3), Stats.

3. 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 guarantee of warranty is provided and, if so, the terms thereof.

(8) 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.

(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 provisions 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 direct selling.

(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 hearing and a statement of the acts upon which the hearing will be based.

(10) PENALTY. Any person convicted of violating any provisions of this ordinance shall forfeit not less than \$10.00 nor more than \$100.00 for each violation plus costs of prosecution. Each violation shall constitute a separate offense.

(11) SEVERANCE CLAUSE. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.