

**Chapter 70**

**Peddlers and Solicitors\***

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## Article I. In General

Sections 70-1 – 70-30. Reserved.

## Article II. Peddlers, Canvassers, Solicitors and Transient Merchants

### Section 70-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Canvasser* and *Solicitor* means a person who goes from place to place within the city soliciting orders for the future delivery of property or for services to be performed in the future, including any person who occupies any place within the city for the purpose of exhibiting samples and taking orders for future delivery.

*Peddler* means a person who goes from place to place within the city offering for sale property which he or she carries with him or her, including a vendor who distributes his or her products to regular customers on an established route.

*Transient Merchant* means a person who engages at a single fixed location in the city in the temporary business of selling property or furnishing services at such location. Transient merchant does not include a person who does not sell from stock but exhibits samples for the purpose of securing orders for future delivery only. The term “transient merchant” includes a person who associates temporarily with any local business or conducts business in the name of local merchant, dealer or auctioneer.

### Section 70-32. Penalty.

Any person who shall violate any provision of this article or who shall fail to obtain a license or permit as required hereunder shall be subject to a penalty as provided in Section 1-14 of this Code.

### Section 70-33. License Required.

No person shall conduct any of the activities of a canvasser, solicitor, peddler or transient merchant without a license therefor as provided by Section 70-35. A license shall be obtained for each separate structure, stand, tent, vehicle, booth or location. The license shall be displayed continuously throughout operation.

### Section 70-34. Exemptions.

No license fee shall be required of the following:

- (1) Persons selling personal property at wholesale to dealers in such articles.
- (2) Newsboys.
- (3) Persons under 18 years of age and not required to obtain a Wisconsin Seller's Permit.
- (4) Merchants or their employees delivering goods in the regular course of business.

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- (5) Farmers or truck gardeners offering to sell the products of the farm or garden cultivated by them.
- (6) Any person soliciting for charitable, religious, patriotic or philanthropic purposes if the proceeds thereof are devoted solely to the purposes of the organization.
- (7) Sales required by statute or order of a court.
- (8) Bona fide auction sales conducted pursuant to law.
- (9) This article does not apply to transient merchants while doing business at events authorized by the common council.

### **Section 70-35. License.**

- (a) All applications and required documents are required to be submitted to the police department at least one business day, excludes weekends and holidays, prior to engaging in sales within the city. Applications are available from the police department and shall include 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, permanent 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, and any services offered;
  - (6) Proposed method of deliverer of merchandise, if applicable;
  - (7) Make, model, and license number of any vehicle to be used by applicant in the conduct of his or her business;
  - (8) Most recent cities, villages, towns, not to exceed three, where applicant conducted his or her business;
  - (9) Place where applicant can be contacted for at least seven days after leaving the city;
  - (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, and the nature of the offense and the place of conviction.
- (b) Applicant shall present to the police department:
  - (1) Proof of driver's license or some other proof of identity as may be reasonable required;

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- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weight 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 the applicant is apparently free from any contagious or infectious diseases, dated not more than 90 days prior to the date the application license is made;
- (4) Proof of current Wisconsin Seller's Permit (Sales Tax);
- (c) The applicant shall sign a statement appointing the chief of police or his or 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.
- (d) Upon signing of said statement, the chief of police shall license the application as a transient merchant and date the license. Said license shall be valid for a period of one year from the date of issuance, subject to subsequent refusal as provided in Section 70-36(c).

### **Section 70-36. Investigation.**

- (a) At any time of filing his or her application, the applicant shall pay to the police department a fee of \$10.00 to cover the cost of investigation of the facts stated in the application.
- (b) Upon receipt of each application the chief of police or his or her designee shall make a complete investigation of statements made in such registration.
- (c) The chief shall refuse to license 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 material nature have been received against the applicant by authorities in the most recent cities, villages and towns, not exceeding three, in which the applicant conducted similar business;
  - (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; or
  - (4) The applicant failed to comply with any applicable provision of Section 70-35(B).

### **Section 70-37. Bond.**

- (a) *When Required; Amount.* Every applicant who is not a resident of the county or who represents a firm whose principal place of business is located outside the state may be required to file with the clerk a surety bond in the amount of \$500.00, approved by the clerk, conditioned that the applicant shall comply with all provisions of the city ordinances and the State laws and guaranteeing to any person doing business with the license that all money paid shall be accounted for and applied according to the representations of the licensee, and

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further guaranteeing that property purchased for future delivery shall be delivered according to the representation of the licensee

- (b) *Action on Bond.* Action on such bond may be brought by any person aggrieved.

### **Section 70-38. Compliance.**

All persons licensed by this section and all other persons exempt from licensing under Section 70-34 shall comply with the following:

- (1) No person shall, in advertising his goods or services, create any noise annoying to a person of ordinary sensibilities.
- (2) No person shall use the public streets or sidewalks for the purposes of sales in such manner to impede or inconvenience the public use of the streets or sidewalks.
- (3) Any person licensed under this article shall carry his license with him while engaged in licensed activities. The license shall be posted in a prominent place and displayed continuously throughout operation.
- (4) No person shall call on any residence between the hours of 9:00 P.M. and 9:00 A.M., except by appointment.
- (5) No person shall call on any place where any sign is displayed bearing the words "no peddlers, no solicitors" or words of similar meaning.
- (6) No person shall call at the rear door of any residence or any place of business.
- (7) No person shall remain on the premises after being requested to leave by the owner, occupant or person in authority.
- (8) No person shall fraudulently or falsely misrepresent the quality, character or quantity of any article offered for sale, offer for sale any unwholesome or tainted food or food stuffs, or intentionally misrepresent to any prospective customer the purpose of his visit or solicitation, nor the name of his business or principal, if any; nor the source of supply of his goods, wares or merchandise which he sells or offers for sale. Nor shall he or she falsely or fraudulently misrepresent the disposition of the proceeds or profits of his sales. No licensee shall use the license provided by the city after the expiration or revocation of the license.
- (9) All persons shall keep the premises in a clean and sanitary condition and the food stuffs offered for sale well covered and protected from dirt, dust and insects.
- (10) No person shall sell, Peddle, or distribute merchandise, including farm products, from any vehicle or car on U.S. Highway 51 or North 4<sup>th</sup> Street.
- (11) After the initial greeting and before any other statement is made to a prospective customer, all persons shall expressly disclose their name, the name of the company or organization they are affiliated with, if any, and the identity of the goods or services they offer to sell.
- (12) If any sale of goods is made by a direct seller, or any sales order for a later delivery of goods is taken by the seller, the buyer shall have the right to cancel such transaction if it involves the

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extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedures set forth in Wisconsin Statute § 423.203(1) (a) and (c) (2) and (3).

If the direct seller takes a sale order for the later delivery of goods, 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 if so, what terms.

### **Article III. Special Events Transient Merchants**

#### **Section 70-39. Definitions.**

*Vendor* means, for the purpose of this section, a person or entity not having a place of business in the city that operates a temporary or transient business for two or more consecutive days during such event and is engaged in selling goods, wares, merchandise, or services, and shall also include a person or entity having a permanent business in the city, that, during such event, engages in the selling of goods, wares, merchandise, or services away from his or her usual place of business for two or more days. This definition shall include those “vendors” who conduct such business in connection with or in the name of any local dealer or merchant.

*Special Event* means an organized occurrence or happening which is scheduled for two or more consecutive days during which the city provides extra services for the safety, health and general welfare of the public shall include sanitation, law enforcement and traffic control.

#### **Section 70-40. License Required.**

Before commencing operation, a vendor as defined in this section, shall purchase a vendor’s license for each separate structure, stand, tent, vehicle, booth, or location. The license shall be posted in prominent spot in each separate location and displayed continuously throughout operation.

#### **Section 70-41. License.**

- (a) All applications and required documents are required to be submitted to the police department at least one business day, excludes weekends and holidays, prior to engaging in sales within the city. Applications are available from the police department and shall include 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, permanent 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, and any services offered;

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- (6) Proposed method of deliverer of merchandise, if applicable;
  - (7) Make, model, and license number of any vehicle to be used by applicant in the conduct of his or her business;
  - (8) Most recent cities, villages, towns, not to exceed three, where applicant conducted his/her business;
  - (9) Place where applicant can be contacted for at least seven days after leaving the city;
  - (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, and the nature of the offense and the place of conviction.
- (b) Applicant shall present to the police department:
- (1) Proof of driver's license or some other proof of identity as may be reasonable required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weight 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 the applicant is apparently free from any contagious or infectious diseases, dated not more than 90 days prior to the date the application license is made;
  - (4) Proof of current Wisconsin Seller's Permit (Sales Tax);
- (c) The applicant shall sign a statement appointing the chief of police or his or 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.
- (d) Upon signing of said statement, the chief of police shall license the application as a transient merchant and date the license. Said license shall be valid for a period of one year from the date of issuance, subject to subsequent refusal as provided in Section 70-42(c).

### **Section 70-42. Investigation.**

- (a) At any time of filing his/her application, the applicant shall pay to the police department a fee of \$10.00 to cover the cost of investigation of the facts stated in the application.
- (b) Upon receipt of each application the chief of police or his or her designee shall make a complete investigation of statements made in such registration.
- (c) The chief shall refuse to license the applicant if it is determined, pursuant the to the investigation above, that:
  - (1) The application contains any material omission or materially inaccurate statement;

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- (2) Complaints of material nature have been received against the applicant by authorities in the most recent cities, villages and towns, not exceeding three, in which the applicant conducted similar business;
- (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; or
- (4) The applicant failed to comply with any applicable provision of Section 70-41(B).

**Section 70-43. Fee.**

The vendor shall pay with the submission of the application a fee computed as follows:

200 Square feet or less of display area	\$110.00
201-400 Square feet of display area	\$220.00
401-1,000 Square feet of display area	\$440.00
1,001 Square feet or more of display area	\$660.00

**Section 70-44. Penalty.**

The penalty for any violation shall be not less than \$200 or more than \$400 per day.

**Section 70-45. Exemptions.**

No license fee shall be required for the exemptions in Section 70-34.