

CHAPTER 178 DIRECT SELLERS, TRANSIENT MERCHANTS AND SOLICITORS

[HISTORY: Adopted by the Common Council of the City of Waterloo 10-19-1987 by Ord. No. 87-6 as §§ 12.08 and 12.15 of the 1987 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Junk dealers — See Ch. 230.

Rummage and garage sales — See Ch. 300.

Streets and sidewalks — See Ch. 324.

§ 178-1 Registration and license 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.

§ 178-2 Definitions.

As used in this chapter, 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 chapter, 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 Clerk-Treasurer.

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 or which, 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 chapter 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.

§ 178-3 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 Regulation and Licensing, pursuant to § 440.41, Wis. Stats., shall be exempt from the requirements set forth in §§ 178-4A and C and 178-6 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 Clerk-Treasurer. A license operative for the dates provided to the Clerk-Treasurer shall be issued without charge upon compliance with the foregoing. The Clerk-Treasurer 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 §§ 178-4A and C and 178-6 below. The provisions of Subsection B above shall be applicable to such organizations.

D.

Veteran's license.

(1)

Any veteran who holds a special state license pursuant to § 440.51, Wis. Stats., shall be exempt from the provisions of §§ 178-4 and 178-6 below, provided that such veteran provides the Clerk-Treasurer 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 Clerk-Treasurer shall then forward the above information to the Chief of Police.

§ 178-4 Registration requirements; application fee.

A.
Applicants for licenses must complete and return to the Clerk-Treasurer a registration form furnished by the Clerk-Treasurer.

B.
Applicants shall present the following items to the Clerk-Treasurer 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 as stated in the City of Waterloo Fee Schedule has been paid to the Clerk-Treasurer to cover the cost of processing said application.

2005 Fee

Editor's Note: The Fee Schedule is on file at the office of the City Clerk-Treasurer.
[Amended 11-17-2005 by Ord. No. 2005-4]

§ 178-5 Investigation; denial of application.

A.
Upon receipt of a completed registration form, the Clerk-Treasurer 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-Treasurer within 72 hours.

B.
The Clerk-Treasurer 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 § 178-4B above.

C.
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 Clerk-Treasurer, who shall notify the applicant that his application was not approved and no license will be issued.

D.
In the event the Clerk-Treasurer shall refuse to issue the applicant a license, the Clerk-Treasurer shall provide the applicant an opportunity to refute said reasons for denial of the license. After the Clerk-Treasurer has made a final

determination, he shall either issue the license or provide the applicant with written reasons for refusing to issue the license.

E.

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.

§ 178-6 Registration and issuance of license.

A.

Upon compliance with the foregoing requirements and filing of a bond, if applicable, the Clerk-Treasurer 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 90 consecutive days from the date of issuance.

B.

Such license shall contain the signature of the Clerk-Treasurer; 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 Clerk-Treasurer 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-Treasurer, 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.

§ 178-7 Regulation of direct sellers and solicitors.

§ 178-8 Regulation of transient merchants.

The provisions of § 178-7B(2) and (3) above shall apply to transient merchants.

§ 178-9 Record of violations.

§ 178-10 Revocation of license.

§ 178-11 Violations and penalties.