

**VILLAGE OF WEST BARABOO
VILLAGE HALL • 500 CEDAR ST. • BARABOO, WI 53913**

**APPLICATION FOR LICENSE OR PERMIT
(Transient Merchants, Direct Sellers, Charitable Organizations, “Peddlers”, Special Event)**

Note: All special permit or license applications shall be accompanied by a non-refundable \$150 processing fee. Failure to completely answer all questions on this application shall be grounds for denial of license or permit.

1. Name and address of applicant (if corporation or other legal entity, correct legal name and location of principal place of business.

2. Nature of business or reason permit is sought. Include type of goods to be sold.

3. Location (s) within village where business is to be conducted.

4. Dates and Times when business will be conducted.

5. Names of three municipalities within the State of Wisconsin where applicant last did or currently is doing the same business or solicitation covered by this application.

6. Include legible photocopy of driver’s license of applicant.

7. Within the five years preceding the date of this application, have you or the legal entity on whose behalf this application is made been convicted of any crime or violation for which a civil forfeiture or other sanction was imposed (excluding traffic violations)?

Yes No

If Yes, please describe nature of offense (s), date (s) of offense (s) and identity of prosecuting authority.

The undersigned states that the above information is true and accurate. Furthermore, the undersigned knows and understands that any permit issued pursuant to this application is in addition to, not in lieu of, any other licenses, restrictions, permits or regulations imposed by local, state, or federal law, applicable to the business, solicitation, or conduct which is subject to this application.

Dated this _____ day of _____, 20_____.

Applicant

FOR VILLAGE USE:

Action by Village:

Approved: _____

Disapproved: _____

Bond Approved: _____

Bond Not Required: _____

Amount: \$ _____

Dated this _____ day of _____, 20_____.

Village Clerk

12.04 REGULATION AND LICENSING OF DIRECT SELLERS AND SOLICITORS.

(1) **REGISTRATION REQUIRED.** It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations within the Village without being registered and licensed for that purpose as provided herein.

(2) **DEFINITIONS.** In this section, the terms used shall be defined as follows:

(a) **Direct Seller.** Any person who sells goods or services or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of said person and shall include, but not be limited to, peddlers, solicitors and transient merchants. For purposes of this section, the acceptance of a "donation" in exchange for goods, or an order for goods, shall be deemed an act requiring compliance with all of the regulatory provisions of this section, including registration and the posting of a bond.

(b) **Permanent Merchant.** A direct seller who, for at least one year prior to the consideration of the application of this section to said merchant, has continuously operated an established place of business in the Village or has continuously resided in the Village and now does business from his residence.

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

(d) **Charitable Organization.** Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, but shall not include religious organizations.

(3) **EXEMPTIONS.** The following shall be exempt from all provisions of this section:

(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 the regular 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 on other than a one-time basis with the prospective customer.

(g) Any person selling, or offering for sale, a service not connected 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-Treasurer proof that such charitable organization is registered under S. 440.41, Wis. Stats. However, any charitable organization not registered under S. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements shall be required to register under this section.

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk-Treasurer that such person is a

transient merchant, provided that there is submitted to the Clerk-Treasurer proof that such person has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in this Village for at least one year prior to the date complaint was made.

(k) Any religious organization having tax exempt status under S. 401(c)(3) of the United States Internal Revenue Code upon submitting proof thereof to the Clerk-Treasurer.

(4) REGISTRATION OR LICENSING.

(a) Applicants for registration or licensing must complete and return to the Clerk-Treasurer a form furnished by the Clerk-Treasurer.

(b) Applicants shall present to the Clerk-Treasurer for examination:

1. A driver's license or some proof of identity as may be reasonably required by the Clerk-Treasurer.

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 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, an investigation fee of \$100 shall be paid to the Clerk-Treasurer to cover the cost of processing said registration. Religious and charitable organizations are exempt from paying said fee. The applicant shall sign a statement appointing the Clerk-Treasurer his 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. Upon payment of said fee and the signing of said statement, the Clerk-Treasurer shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period

of one year from the date of entry, subject to subsequent refusal as provided in sub. (5)(b) below, or forfeiture as provided in sub. (8) below.

(5) INVESTIGATION; GRANTING OR DENIAL OF LICENSE.

(a) Upon receipt of a completed registration form, the Clerk-Treasurer shall make an investigation.

(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 5 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 sub. (4)(b) above.
4. If as a result of the investigation required under this section, the applicant's business or character are found to be unsatisfactory, the Clerk-Treasurer shall endorse on said application his disapproval and his reasons for the same and shall notify the applicant that his application was not approved and no license will be issued.

(c) In the event the Clerk-Treasurer shall refuse to issue the applicant a license, the Clerk-Treasurer shall provide that 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.

(d) Any person denied application for a license may appeal such action by filing with the Administrative Review Appeals Board within 14 days after written notice of the denial a written statement requesting a hearing and setting forth the grounds for the appeal. The Administrative Review Appeals Board 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) 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 visit, his identity or the identity of the organization he represents. A charitable or religious organization direct seller shall specifically disclose what portion of the free donation or the sale price of goods being offered will actually be used for the charitable or religious 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 is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller 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 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 of more than \$25, or is a cash transaction, in accordance with the procedure as set forth in S. 423.203, Wis. Stats., and the seller shall give the buyer 2 copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of S. 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; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

(c) Bond. 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 Sauk County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the State of Wisconsin, shall file with the Clerk-Treasurer a surety bond for a term of one year from the date of issuance of license, running to the Village in the amount of \$5,000 with surety acceptable to the Village Attorney, conditioned that the applicant comply with all applicable ordinances of this Village and statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of this Village that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will 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) RECORDS. The Clerk-Treasurer shall note any violations of this section on the record of the registrant convicted.

8) REVOCATION OF LICENSE.

(a) Any license issued under this section 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 a license, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, 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.

(b) Written notice of the hearing mailed to the seller at the permanent address shown on the registration at least 15 days, or 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 facts upon which the hearing will be based.

(9) PENALTY. Any person convicted of violating any provision of this section shall forfeit not less than \$10 nor more than \$200 for each violation plus costs of prosecution. Each violation shall constitute a separate offense.