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ORDINANCE NO. 2024-010
AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF LINN,
WALWORTH COUNTY, WISCONSIN, SECTION 10-3, PEDDLERS, HAWKERS,
CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS

§ 10-3. Peddlers, hawkers, canvassers, solicitors and transient merchants.

A. The practice of going in or upon private or public property in the Town by solicitors, peddlers, canvassers, itinerant merchants or transient merchants, not having been requested or invited to do so by the owner or occupant of private premises, business establishments or offices or by the occupants of public buildings or places, for the purpose of soliciting orders for the sale of goods, wares and merchandise, and peddling of the same or soliciting subscriptions for magazines, periodicals, books or other publications, or to solicit contributions, unless licensed or permitted to do so under the ordinances of the Town, or as exempted from requiring a license or permit by state law is unlawful.

B. Definitions:

As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE ORGANIZATION

Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.

CLERK

The Town Clerk.

MERCHANDISE

Includes 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.

PERMANENT MERCHANT

Any merchant who, for at least one year prior to the consideration of the application of this chapter to the merchant, has continuously operated an established place of business in the local trade area among the communities bordering the place of sale or has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his residence.

TRANSIENT MERCHANT

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 definition, "sale of merchandise" includes a sale in which the personal services rendered upon or in connection with the merchandise constitute 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 resident of this state.

C. Exemptions.

The following shall be exempt from all provisions of this chapter:

- (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 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 delivers such merchandise in their regular course of business.
- (4) 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 such person.
- (5) 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.
- (6) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (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.
- (8) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under § 202.12, Wis. Stats. Any charitable organization not registered under § 202.12, Wis. Stats., or which is exempt from the statute's registration requirements, shall be required to register under this chapter.
- (9) 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 has conducted business in the market area for at least one year prior to the date the complaint was made.
- (10) Any individual licensed by an examining board as defined in § 15.01(7), Wis. Stats.
- (11) Transient merchants while doing business at special events authorized by the Town Board.

D. Registration.

(1) Applicants for registration shall 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 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 business.
- (h) Most recent cities, villages, and towns, not to exceed three, where applicant conducted his business.
- (i) Place where applicant can be contacted for at least seven days after leaving this Town.
- (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 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 90 days prior to the date the application for registration is made.

(3) At the time the registration is returned, a fee as established by the Town Board shall be paid to the Clerk to cover the cost of processing such registration.

(4) The applicant shall sign a statement appointing the Clerk 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.

(5) Applicants shall be limited to registering as a transient merchant to one time within any one calendar year for a period of not more than 14 days.

E. Investigation.

(1) Upon receipt of each application, the Clerk ~~shall~~ ~~may~~ refer it ~~immediately~~ to the Chief of Police who ~~will~~ ~~may~~ make and complete an investigation of the statements made in such registration.

(2) Following an investigation, the Clerk or the Police Chief shall report all of the following to the Town Board:

~~The Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:~~

(a) ~~Whether~~ ~~if~~ the application contains any material omission or materially inaccurate statement.

(b) ~~Whether~~ ~~C~~omplaints of a material nature have been received against the applicant by authorities in the ~~most recent~~ ~~other~~ cities, villages and towns, ~~not exceeding three,~~ in which the applicant conducted similar business.

(c) ~~Whether~~ ~~if~~ 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.

(d) ~~Whether~~ ~~if~~ the applicant failed to comply with any applicable provision of § 10-3(D)(2) above.

(3) Approval from the Town Board is required to be issued registration.

F. Appeal.

Any person refused or denied registration may appeal the denial to the Town Board.

G. Prohibited practices; disclosure requirements.

(1) Prohibited practices.

(a) A transient merchant shall be prohibited from:

(i) Calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m., except by appointment.

(ii) Calling at any dwelling or other place on Saturdays, Sundays, or legal holidays.

(iii) Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning.

(iv) Calling at the rear door of any dwelling place; for homes located upon the Geneva Lake shore and accessible via the Shore Path, any approach shall be to the door that is used for delivery of mail or other parcel and package delivery services; calling at the lakeside door of any dwelling place shall be prohibited.

(v) Utilizing the Shore Path for access to any dwelling or other place; no access to a dwelling or other place shall occur from the Shore Path in any situation.

(vi) 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, purpose of his visit, his identity or the identity of the organization he 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, 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-foot radius of the source.

(e) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he 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 name, the name of the company or organization he is affiliated with, if any, and the identity of the merchandise or services he offers to sell.

(b) A buyer shall have the right to cancel any sale of merchandise or any offer for the later delivery of merchandise taken by the seller if such transaction involves the extension of credit or is a cash transaction of more than \$25, in accordance with § 423.202, Wis. Stats. The seller shall give the buyer two copies of a typed or printed notice of that fact, which notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.

(c) If the transient merchant takes a sales order for the later delivery of merchandise, 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.

H. Record of violations.

The Chief of Police shall report to the Clerk all convictions for violation of this chapter and the Clerk shall note any such violation on the record of the registrant convicted.

I. Revocation of registration.

(1) Registration may be revoked by the Town Board 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 chapter or was convicted of any crime, 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 § 10-3(D)(4) above on the registrant at least 72 hours prior to the time set for hearing. Such notice shall contain the time and place of hearing and a statement of the facts upon which the hearing will be based.

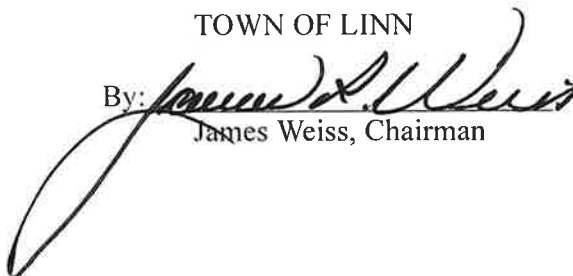
J. Violations and penalties.

In addition to the suspension or revocation of a registration issued under this chapter, any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder shall be subject to a penalty as provided by § 1-4 of this Code.

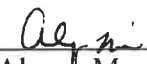
Dated at the Town of Linn this 22 day of October, 2024.

TOWN OF LINN

By:


James Weiss, Chairman

ATTEST:


Alyson Morris, Clerk