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11.130 Direct Sellers and Direct Purchasers.


(1) Registration Required. It shall be unlawful for any direct seller or direct purchaser to engage in direct sales of goods or services or direct purchases of goods within the City of Manitowoc without being registered for that purpose as provided herein.

(2) Definitions. In this section:

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

Clerk shall mean the City Clerk.

Direct purchaser means any individual who, for him/herself, or for a partnership, association or corporation, purchases or takes orders for the later purchase of goods at any location other than a permanent business place or residence of said individual, partnership, association or corporation.

 **Direct seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods or services, or takes 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, solicitors and transient merchants. The sale of goods or services includes donations required by the direct seller for the retention of goods or services by a donor or prospective customer.

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

Permanent merchant means a direct seller who, for at least six months prior to the consideration of the application of this section to said merchant:

1. Has continuously operated an established place of business in Manitowoc County;
or
2. Has continuously resided in Manitowoc County and now does business from his/her residence.

(3) Exemptions. Except as otherwise indicated, the following shall be exempt from the 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 the sale of goods regularly offered for sale by such merchant within this County and who delivers such goods in their regular course of business;

(e) Any person who has an established place of business where the goods or services 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 selling prepared food and/or beverages for immediate consumption, or retail foods for which a retail food license is required;

(g) 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;

 (h) Any charitable organization or employee, officer or agent of the same which has for at least six months maintained a permanent office or headquarters in the City of Manitowoc;

(i) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is not a permanent merchant; provided, that there is submitted to the Clerk proof that such person has leased for at least six months, or purchased, the premises from which he/she is conducting such business in this City for at least six months prior to the date complaint was made;

(j) Any person selling goods or services at a flea market, art fair, or similar event involving five or more direct sellers and which event is sponsored by a permanent resident of Manitowoc County.

(4) Registration.

(a) Applicants 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, and 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 or services, if they are to be delivered at a later time after a solicitation;
7. Make, model and license number of any vehicle to be used by applicant conducting such 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 this City, or for at least seven days after the last delivery date of any goods or services sold or purchased in this City, whichever day is later;

10. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's 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 authorities;

3. 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 \$75.00 shall be paid to the Clerk to cover the cost of processing said registration. 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. Upon payment of said fee and the signing of said statement, the Clerk shall register the applicant as a direct seller or direct purchaser and date the entry. Said registration shall be valid for a period of three months from the date of entry, subject to subsequent refusal as provided in subsection (5)(b) of this section.

(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 in subsection (5)(a) of this section, 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 any applicable provision of subsection (4)(b) of this section.

(6) Appeal. Any person denied registration may appeal the denial under the provision of Wis. Stat. §§ 68.07 through 68.16.

(7) Regulation of Direct Sellers and Direct Purchasers.

(a) Prohibited Practices. The following prohibited practices shall apply to all direct sellers and direct purchasers, including those otherwise exempt under subsection (3) of this section.

1. A direct seller or direct purchaser shall be prohibited from: calling at any dwelling or other place between the hours of 8:00 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 organization he/she represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods or services 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 or services.

3. No direct seller or direct purchaser 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 or direct purchaser 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 of a 100-foot radius of the source.

5. No direct seller or direct purchaser shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

1. Where the direct seller or direct purchaser initiates contact with the prospective buyer or seller, after the initial greeting and before any other statement is made to a prospective customer, a direct seller or direct purchaser shall expressly disclose his/her name, the formal name, and the popular name if not identical to the formal name, of the company or organization he/she is affiliated with, if any, and the identity of the goods or services he/she offers to sell or purchase. This disclosure, along with the following statement, shall be read orally to the customer in the following language.

My name is _____, I represent the _____, more popularly known as _____. The (goods) (services) I (have for sale) (am interested in purchasing) are _____.

You should be aware that although I have been registered by the City of Manitowoc, this registration is not an endorsement by the City of (the quality of the goods or services I am selling or) the reputation of me or any organization I represent.

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.

The City Clerk shall provide each direct seller with a card containing the foregoing information.

In addition, a charitable organization, direct seller or direct purchaser shall specifically disclose what portion of the sale price of goods or services 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.

2. If any sale of goods or services is made by a direct seller, or any sales order for the later delivery of goods or services 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 any amount, in accordance with the procedure as set forth in Wis. Stat. Ch. 423, except that cash transactions of any amount shall be covered hereunder. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Wis. Stat. § 423.203(1)(a), (b) and (c), (2) and (3).

3. If the direct seller takes a sales order for the later delivery of goods or services, 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 or 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 section 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 Common Council 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 presentation 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 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 the place of hearing and a statement of the facts upon which the hearing will be based.

(10) Penalty. Any person convicted of violating any provisions of this section shall forfeit not less than \$20.00 nor more than \$500.00 for each violation plus costs of prosecution. Each violation shall constitute a separate offense.

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

[Ord. 08-039 § 2, 2008. Prior code § 11.08]

The Manitowoc Municipal Code is current through Ordinance 16-0048, passed January 18, 2016.

Disclaimer: The City Clerk's Office has the official version of the Manitowoc Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Code Renumbering: The City of Manitowoc reformatted their code in 2011. If you are looking for the text of an ordinance under the previous numbering system, please look to the cross-reference table (ManitowocOT/ManitowocOTA.html) .

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