

**Town of Somerset
Ordinance 2006-01
Direct Seller/Transient Merchants**

- I. **Definitions:** Direct Seller/Transient Merchant – Includes any peddler, canvasser, solicitor or transient merchant, or agent or employee, who engages in, does or transacts any temporary or transient business in the town, either in one location or by moving his place of business from place to place in the town, selling goods, wares or merchandise or soliciting for such trade, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot or vehicle for the exhibition or sale of such goods, wares and merchandise.
- II. **Exceptions:** This chapter shall not include:
- a. Any person delivering newspapers, fuel, dairy products, bakery products fruit juices, or ice to regular customers on established routes.
 - b. Any person selling goods at wholesale to dealers in such goods.
 - c. Children under 18 years of age who are residents of the Town and Village of Somerset.
 - d. Any person selling agricultural products which such person has grown.
 - e. 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 who delivers such goods in their regular course of business.
 - f. 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.
 - g. Any veteran who holds a special state license issued pursuant to Section 440.51, WSS.
 - h. 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.
 - i. Any person holding a sale required by statute or by order of any court and Any person conduction a bona fide auction sale pursuant to law.
 - j. Any employee, officer or agent of a charitable organization who engages in public solicitation or direct sales for or on behalf of said organization, provided that the entire funds or proceeds from the sales go and belong to the charitable organization and the solicitor is not compensated for the solicitation.
 - k. Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in this Town for at least one (1) year prior to the date complaint was made.
- III. **Registration:** Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Town Clerk which shall require the following information:

- a. Name, permanent address, telephone number and temporary address (if any).
- b. Name, address and telephone number of the person, firm, association/corporation that the direct seller represents or is employed by, or whose merchandise is being sold.
- c. Temporary address and telephone number from which business will be conducted (if any).
- d. Nature of business to be conducted and a brief description of the goods offered and any services offered.
- e. Proposed method for delivery of goods, if applicable.
- f. Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business.
- g. Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
- h. Place where applicant can be contacted for at least seven (7) days after leaving this Town.
- i. 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 (5) years, the nature of the offense and the place of conviction.

Applicants shall present to the Town Clerk for examination:

- a. A driver's license or some other proof of identity as may be reasonably required.
- b. A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under law; such certificate to state that applicant is apparently free from any contagious disease, dated not more than ninety (90) days prior to the date of application for the license is made.

Registration fees shall be as follows:

- a. At the time the registration is returned, a fee as established by resolution of the Town Board, shall be paid to the Town Clerk to cover the cost of investigation and processing said registration. Each and every member of a group must file a separate registration form and pay said fee.

IV: **Investigation:** Upon receipt of each application, the Town Clerk may refer it immediately to law enforcement agencies serving the Town which may make and complete an investigation of the applicant's business and moral character for the protection of public good. The Town Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, 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 (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling, or the applicant failed to complete the registration form with proof of identity.

V: **Bond:** If the Town Clerk or Town Board determines from the investigation of said application that the interests of the Town or the inhabitants of the Town require protection against possible misconduct of the licensee, she/he may require the

applicant to file a bond in the sum of \$1,000.00, with surety acceptable to the Town, guaranteeing to any citizen of the Town doing business with him that the property purchased will be delivered according to the representations of the applicant, provided that the action to recover on any such bond shall be commenced within six months after the expiration of the license of the principal.

VI:

Issuance of License-Conditions:

- a. Upon compliance with the above sections of this ordinance, the Town Clerk shall issue to the applicant a license. All licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the kinds of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license, the fee paid and the name of the licensee.
- b. Such licenses shall automatically expire on January 1, following the date of issuance of such license, but such licenses may specifically state and provide for an earlier expiration date.
- c. No license shall be granted to an applicant to whom a license has been refused or who has had a previous license revoked until at least six months has elapsed since the last previous rejection or revocation, unless applicant can show that the reason for such rejection or revocation no longer exists.
- d. Every licensee, while exercising their license, shall post his license in a conspicuous place and shall exhibit the same upon demand of any officer or customer or prospective vendor. A license shall not be assignable and any holder of such license who permits it to be used by any other person, and also any person who uses a license granted to another person, shall be guilty of a violation of this section.
- e. Whenever a license is lost or destroyed a duplicate in lieu thereof under the original application may be issued by the Town Clerk upon the filing by the applicant of an affidavit setting forth the circumstances of the loss, upon the payment of a fee for replacement license as set forth by resolution by the Town Board.
- f. The Town Board or designee has the right to revoke the license at any time, for any reason.

VII.

Prepayments: All orders taken by a licensee who receives payment or a deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid.

VIII.

Duties of Sellers/Merchants: A licensed direct seller/transient merchant shall:

- a. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs.
- b. Not use the license provided by the Town after the expiration or revocation of the license.
- c. Keep the licensed premises clean and sanitary condition and the foodstuffs offered for sale well covered and protected for dirt, dust and insects.
- d. Keep the place occupied clean and in sanitary condition and before leaving,

Remove all paper, debris and rubbish.

- e. No licensee shall call at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m., except by appointment.
- f. No licensee shall call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers or No Solicitors" or words similar to meaning.
- g. No licensee shall call at the rear door of any dwelling or other place.
- h. No licensee shall remain on any premises after being asked to leave by the owners, occupants, or other person having authority over such premises.

IX: **Violations and Penalties:** Any person who violates this Ordinance, upon conviction thereof, shall forfeit not more than \$250.00, plus the costs of the prosecution for the violation.

X. **Authority:** The Town Board has specific authority ss. 29.038, 169.01, Wis Stats and the general authority under its Village Powers under ss. 60.22, Wis stats to adopt this ordinance.

Adopted this _____ day of _____, 2006, By the Somerset Town Board:

_____, Ed Schachtner, Chairman

_____, Douglas Plourde, Supervisor

_____, Shane Demulling, Supervisor

_____, Denise Gunderson, Supervisor

_____, Lenny Germain, Supervisor

Attest: _____, Jeri Koester, Clerk/Treasurer