

**TOWN OF CAMPBELL
LA CROSSE COUNTY, WISCONSIN
ORDINANCE #2021-6**

An Ordinance to Create Chapter 12 Article III of the Town of Campbell Code of Ordinances Relating to Direct Sellers and Solicitor Licensing

ARTICLE III- DIRECT SELLERS/SOLICITOR LICENSING

Section 12-60 Definitions

CHARITABLE ORGANIZATION: Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation described in Section 501(c)(3) of the Internal Revenue Code and exempted from income taxes under Section 501(a) of that code.

DIRECT SELLER: Any individual who, for such individual, or for a partnership, association, limited liability corporation, limited liability partnership or corporation, who sells goods, or takes sales orders for the later delivery of goods, 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 includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

GOODS: Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

PERMANENT MERCHANT: A direct seller who, for at least one year prior to the consideration of the application, has continuously maintained a permanent retail location in this Town and maintained consistent business hours open to the public.

PERSON: All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

SPECIAL EVENT: An athletic event, ceremony, demonstration, exhibition, march, pageant, parade, procession, show or other similar display which interferes with the normal flow or regulation of traffic upon the streets, sidewalks or rights-of-way, or the normal use of parks or other public grounds and for which a special event permit has been issued.

Section 12-61 Exemptions

A. The following shall be exempt from all provisions of this division:

1. The delivery of goods to regular customers on established routes. This exemption shall not apply to direct sales on sidewalks.
2. The sale of goods at wholesale to dealers in such goods.
3. The sale of agricultural products from a commercially zoned property which such person has grown, unless such sales are door-to-door.
4. A home visit requested by the buyer.
5. A sale required by statute or by order of any court or a bona fide auction sale pursuant to law.
6. Direct sales conducted by a charitable organization or an agent thereof.
7. Any person at a farmers' market selling fruits, vegetables, meats, cheeses, baked goods and handcrafted items that the person or their family produced. This exemption does not extend to the resale or wholesale of products, and the sale of additional goods and products not produced by the seller or their family.
8. Direct sales conducted by a permanent merchant or an agent thereof. Any person who claims to be a permanent merchant, but against whom complaint has been made to the office of the Town Clerk that such person is a transient merchant, shall be exempt, provided that there is submitted to the office of the Town Clerk proof that they meet the definition of a permanent merchant set forth in Section 12-60.

Section 12-62 Licensing procedure.

A. License required. It shall be unlawful for any direct seller or solicitor to engage in direct sales within the Town of Campbell without obtaining a license for that purpose as provided herein. A licensee shall be responsible for the acts and omissions of any employee, agent, or independent contractor or other individual. This license is specific to a person, not a company, so each individual engaging in solicitations must acquire a direct seller license.

B. License application:

1. Applicants for direct sellers' licenses must complete and return an application form furnished by the office of the Clerk. At the time the application is submitted, a fee shall be paid as set forth on the Town of Campbell Fee Schedule, which shall be reviewed annually, for the cost of processing the application and performing the investigation. Every person engaged in direct sales must file a separate application form.

2. The applicant shall sign a statement appointing the Town Clerk their 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.

3. Upon receipt of a license application, the office of the Clerk may refer it immediately to the Chief of Police or their designee, who may make and complete an investigation of the statements made in such registration. If the Police Department determines that any portion of the application is false or that the applicant has been convicted of a violation of an ordinance or law which substantially relates to the activity described in the application or the applicant has pending charges and such charges substantially relates to the activity described in the application, the application may be denied by the Police Department in conference with the Town Clerk.

4. If the Police Department approves the application, and there have been no complaints of material nature that have been received against the applicant by authorities in the last two years by any cities, villages and towns in which applicant conducted similar business, and the applicant has met all of the requirements of this division, the Town Clerk may grant the permit without further review.

C. (Reserved):

D. Issuance: Upon payment of said fee and the completion of the investigation, the Town Clerk shall issue a license to the applicant as a direct seller and the date of entry. The license shall be valid for a period of 90 days from the date of entry, subject to subsequent refusal as provided herein.

E. Suspension, revocation and nonrenewal of license:

1. Licenses may be suspended, revoked or nonrenewed for a violation of any provision of this division or a violation of a statute, ordinance or regulation substantially related to the permitted activity. A hearing for the suspension, revocation or nonrenewal of a license shall be conducted before the Town Board.

2. Written notice of the hearing shall be served personally on the licensee at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

3. Appeal from a decision of the Town Board shall be to the Circuit Court for La Crosse County.

F. Appeal: Any person denied a license may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of §§ 68.07 through 68.16, Wis. Stats. An applicant whose permit has been denied by the Police Department or whose appeal has been denied by the Town Board may not apply for a permit for a period of one year from the date of the original application.

G. Records: The Chief of Police or their designee shall report to the office of the Town Clerk all convictions for violation of this division, and the Town Clerk shall note any such violation on the record of the registrant convicted.

Section 12-63 Additional regulations for direct sellers/solicitors.

A. Prohibited practices:

1. Direct sellers are hereby prohibited from:

a. Calling at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m. except by appointment;

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

c. Calling at the rear door of any dwelling place; or

d. 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 their visit, their identity or the identity of the organization they 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.

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians or vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed. No direct seller shall be upon any street used as a parade route between the time of 1/2 hour immediately preceding the commencement of any scheduled parade until after the conclusion of any scheduled parade.

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 100-foot radius of the source.

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

6. Sales of any type of device that expels a projectile are prohibited.

7. No direct seller shall engage in direct sales at a special event without permission of the organization holding the special event permit or, if no permit is needed, the organization sponsoring the special event.

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 the seller's name, the name of the company or organization with which they are affiliated, if any, and the identity of the goods or services they offer for sale. The direct seller shall also carry their direct seller license on their person at all times when engaged in selling and display the same to a prospective customer upon request.

2. The direct seller shall provide written notification of the procedure as set forth in § 423.203, Wis. Stats., related to the buyer's right to cancel, as applicable.

3. If the direct seller takes a sales order for the later delivery of goods, the direct seller 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.

Any person who violates any provision of this ordinance is subject to a forfeiture of not less than \$100 nor more than \$500, together with the costs of prosecution. A person who is in default of payment is subject to imprisonment in the county jail until the forfeiture and costs are paid.

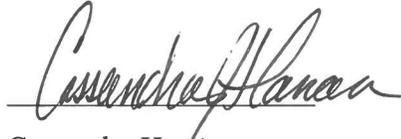
This Ordinance shall take effect and be in force from and after its passage and publication as required by Section 60.80 of the Wisconsin State Statutes.

Passed this 14th day of December, 2021



Joshua Johnson

Town Chairman



Cassandra Hanan

Clerk/Treasurer

