

CHAPTER 44

TRANSIENT MERCHANTS

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CHAPTER 44

TRANSIENT MERCHANTS

SECTION 44.01 Registration Required.

It shall be unlawful for any transient merchant to engage in sales within the Village of Cross Plains without being registered for that purpose as provided herein.

SECTION 44.02 Definitions.

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

- (a) **Administrator/Clerk-Treasurer.** The Village of Cross Plains Administrator/Clerk-Treasurer.
- (b) **Charitable Organization.** Includes any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation.
- (c) **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.
- (d) **Permanent Merchant.** Any person who, for at least six months prior to the consideration of the application of this chapter to said merchant, has continuously operated an established place of business in the local trade area among the areas bordering the place of sale or has continuously resided in the local trade area among the areas bordering the place of sale and now does business from his/her residence.
- (e) **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 Village.
- (f) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this Village temporarily, including selling door to door at residences and businesses, and who does not intend to become and does not become a permanent merchant of such place.

SECTION 44.03 Exemptions.

- (a) 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) Residential garage sales.

- (3) Any person selling merchandise at wholesale to dealers in such merchandise.
 - (4) Any person selling agricultural products which the person has grown.
 - (5) 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 his regular course of business.
 - (6) 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, said person.
 - (7) 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.
 - (8) Any person holding a sale required by statute or by order of any court and any person conducting a bond fide auction sale pursuant to law.
 - (9) 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 Administrator/Clerk-Treasurer proof that such charitable organization is registered under Section 440.42, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Section 440.42, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this chapter.
 - (10) Any person who claims to be a permanent merchant but against whom complaint has been made to the Administrator/Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the Administrator/Clerk-Treasurer proof that such person has leased for at least one year, or purchased, the premises from which he/she has conducted business in the market area for at least six months prior to the date the complaint was made.
 - (11) Any individual licensed by an examining board as defined in Section 15.01(7), Wis. Stats.
- (b) This chapter does not apply to transient merchants while doing business at special events authorized by the Village of Cross Plains Village Board.

SECTION 44.04 Registration Procedure.

- (a) Applicants for registration must complete and return to the Administrator/Clerk-Treasurer a registration form furnished by the Administrator/Clerk-Treasurer which shall require the following information:
 - (1) Full name, date of birth, 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 transient merchant 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 merchandise, and any services offered.
 - (6) Proposed methods of delivery of merchandise if applicable.
 - (7) Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
 - (8) Most recent cities, villages, and towns, not to exceed three, where the applicant conducted his/her business.
 - (9) Place where the applicant can be contacted for at least seven days after leaving this Village.
 - (10) Statement as to whether the applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years and the nature of the offense and the place of conviction.
- (b) Applicants shall present to the Administrator/Clerk-Treasurer 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 the applicant's business requires use of weighing and measuring devices approved by state authorities.
 - (3) A State Health Officer's certificate where the applicant's business involves the handling of food or clothing and is required to be certified under state law, such certificate to state that the 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.
- (c) At the time the registration is returned, a fee as set by the Village Board shall be paid to the Village Administrator/Clerk-Treasurer to cover the cost of processing said registration.
- (1) The applicant shall sign a statement appointing the Administrator/Clerk-Treasurer 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.
 - (2) Upon payment of said fee and the signing of said statement, the Administrator/Clerk-Treasurer shall register the applicant as a transient merchant 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 Section 44.05(b) below.

SECTION 44.05 Investigation.

- (a) Upon receipt of each application, the Administrator/Clerk-Treasurer shall refer it immediately to the Chief of Police who shall make and complete an investigation of the statements made in such registration.
- (b) The Administrator/Clerk-Treasurer 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 most recent cities, villages or 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 Section 44.04(b) above.

SECTION 44.06 Appeals.

Any person refused or denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.01 through 68.13, Wis. Stats.

SECTION 44.07 Prohibited Practices; Disclosure Requirements.

- (a) **Prohibited Practices.**
 - (1) Transient merchants shall be limited to hours of operation on Monday through Saturday as established by the Village Administrator/Clerk-Treasurer.
 - (2) A transient merchant shall be prohibited from 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.
 - (3) 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, the purpose of his/her visit, his/her identity or the identity of the organization he/she 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. Said portion shall be expressed as a percentage of the sale price of the merchandise.

- (4) 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.
 - (5) 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.
 - (6) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- (b) **Disclosure Requirements.**
- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
 - (2) If any sale of merchandise is made by a transient merchant, or any offer for the later delivery of merchandise 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 more than \$25, in accordance with the procedure as set forth in Section 423.203, Wis. Stats.; 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 Section 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.
 - (3) If the transient merchant takes a sales order for the later delivery of merchandise, 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.

SECTION 44.08 Records.

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

SECTION 44.09 Revocation of Registration.

- (a) Registration may be revoked by the Village Administrator/Clerk-Treasurer.
- (b) Written notice of the revocation shall be served on the registrant.
- (c) Appeals may be filed with the Village Board.

SECTION 44.10 Violations and Penalties.

The penalty for violation of any provision of this section shall be not less than \$10 nor more than \$1,000, plus costs of prosecution. Each day of a continuing violation shall constitute a separate offense.