

of solicitor.

(b) *Charitable organization* shall mean any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association, or corporation for which there is provided proof of tax exempt status pursuant to section 501(c)(3) or (4) of the United States Internal Revenue Code.

(c) *Direct seller* means any individual who, for him/herself, or for a partnership, association, corporation or other entity, sells goods or services or takes sales 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, corporation or other entity, and shall include, but not be limited to, peddlers, canvassers, and transient merchants. The sale of goods and services includes donations requested or required by the direct seller for the retention of goods or services by a donor or prospective customer.

(d) *Goods* shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

(e) *Peddler or hawker* shall mean a person who goes from place to place selling or attempting to sell goods, wares, or merchandise at retail. No person distributing, selling, or offering for sale any excess agricultural products which such person shall have actually raised or grown in the State of Wisconsin shall be deemed a hawker or peddler under this section.

(f) *Permanent merchant* means a direct seller or one representing a merchant who, for at least one year prior to the submission of an application pursuant to this ordinance, has continuously operated an established place of business in the Village or has continuously resided in the Village and

### **17.05 Direct Sales and Solicitations.**

(1) **REGISTRATION REQUIRED.** It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations without being registered and licensed for that purpose as provided herein.

(2) **DEFINITIONS.** In this section: (a) *Applicant* shall mean each individual applying for registration and licensing as a direct seller

now does business from his/her residence.

(g) *Registrant* shall mean each individual registered by the clerk and to whom a license has been issued.

(h) *Solicitor* means any individual who, for him/herself or for any other person, organization, society, association, corporation or other entity, personally solicits money, property, or financial assistance of any kind from persons other than members of such organization, society, association, corporation or other entity.

(I) *Transient merchant* shall mean one who engages in the sale of merchandise at any place in this Village temporarily, and who does not intend to become and does not become a permanent merchant.

(3) EXEMPTIONS. (a) The following shall be exempt from all provisions of this ordinance:

1. Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on established routes.

2. Any person selling goods at wholesale to dealers in such goods.

3. Any farmer or truck gardener selling agricultural products of the farm or garden occupied or cultivated by such person.

4. 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 within this county and who delivers such goods in his or her regular course of business.

5. 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.

6. 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 a prospective customer.

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 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 purchased or leased for at least one year the premises from which he or she is conducting business or proof that such person has conducted such business in this Village for at least one year prior to the date the complaint was made.

9. Boy Scouts of America, Girl Scouts of America, Shorewood League, bona fide public school organizations, and other non-profit Village organizations.

(4) REGISTRATION REQUIREMENTS.

(a) Applicants for licenses must complete and return to the clerk a registration form furnished by the clerk. The form shall require the following information:

1. Name, permanent address, telephone number, and temporary address, if any.

2. Age, height, weight, and color of hair and eyes of each individual covered under the license.

3. Name, address, and telephone number of the person, firm, association, corporation or other entity that the direct seller represents or is employed by or whose merchandise is being sold.

4. Temporary address and telephone number from which sales or solicitations will

be conducted, if any.

5. Nature of sales or solicitations to be conducted and a brief description of the goods and/or services offered.

6. Proposed dates and times of sales or solicitations.

7. Proposed method of delivery of goods, if applicable.

8. Make, model, and license number of any vehicle to be used by applicant in the conduct of sales or solicitations.

9. Last three cities, villages, and/or towns where applicant conducted similar sales or solicitations.

10. Place where applicant can be contacted for at least seven days after leaving the Village.

11. Statement as to whether any applicant has been convicted of any crime or ordinance violation related to applicant's sales or solicitation or other transient merchant activities within the last five years, the nature of the offense, and the place of conviction.

(b) Applicants shall present the following items to the administrator/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. 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 and dated not more than ninety days prior to the date the

application for license is made.

(c) The application fee shall be set from time to time by resolution of the Village Board.

(d) No application shall be processed until the applicant signs 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, service performed, or solicitation by the applicant in connection with the direct sales or solicitation activities of the applicant in the event that applicant cannot, after reasonable effort, be served personally.

**(5) INVESTIGATION; DENIAL OF APPLICATION.** (a) Upon receipt of a completed application form the clerk shall immediately refer it to the police chief to make an investigation.

(b) The clerk shall refuse to issue a license to the applicant for any of the following reasons:

1. The application contains any material omission or materially inaccurate statement.

2. Complaints of a material nature have been received against the applicant by authorities in any of the last three cities, villages or towns in which the applicant conducted similar business.

3. 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 solicitation.

4. The applicant failed to comply with any applicable provision of section (4)(b) above.

**(6) REGISTRATION AND ISSUANCE OF LICENSE.** (a) Upon compliance with the

foregoing requirements, filing of a bond, if required, and payment of the license fee as hereinafter set forth, the clerk shall register the applicant as a direct seller or solicitor and issue a license to the applicant. The license shall be operative only during the days requested on the registration form.

(b) The license shall contain the signature of the clerk, the name and address of the direct seller or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitation.

(c) Registrants shall exhibit their license at the request of any citizen or police officer.

(d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Dane County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the State of Wisconsin, shall file with the clerk a surety bond, for a term of one year from the date of issuance of the license, running to the Village in the amount of \$5,000.00 with surety acceptable to the Village clerk, assuring that the applicant comply with all applicable ordinances of this Village and statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors, and transient merchants. Such bond shall guarantee to any citizen of this Village that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit,

among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the clerk of court in which suit is commenced and be relieved of all further liability.

(e) *License fee for peddlers or hawkers.* A person desiring to engage in such business or occupation shall pay to the Village a license fee set from time to time by resolution of the Village Board.

(f) *Term of license.* Each license for a peddler or hawker shall be issued on the first day of January each year, or thereafter when applied for and shall expire on the 31st day of December following its issuance.

(g) *License fee for transient merchants.* Every transient merchant licensed hereunder shall pay a license fee, set from time to time by resolution of the Village Board, for each sales event which shall not exceed a period of four days, or an annual license fee set from time to time by resolution of the Village Board.

(h) *Christmas tree sales licensed.* A license shall be required for the outdoor sale of Christmas trees. Any person, firm, corporation or other entity desiring to engage in the business of selling Christmas trees within the Village at a specific location shall make application to the Village clerk upon a form furnished by the Village clerk, and shall contain such information required by section 17.05(4).

1. License fee. The annual fee for such license shall be set from time to time by resolution of the Village Board. The license shall expire on January 1 following the date of issuance.

2. Regulations and restrictions. No such trees shall be placed in any location within fifty feet of any gasoline pump or other

liquid fuels. The license shall not be assignable. The licensee shall have direct control over the premises or location where such trees are sold and over the sale of such trees and be responsible for the conduct of all persons in the licensee's employ or under the licensee's direction or control. The licensee shall be responsible for cleaning the premises following closing of the sale of such trees and such cleaning shall be accomplished within seven days following termination of sale and done in a manner satisfactory to the clerk, or in his or her absence, the fire chief or police chief.

acts or omissions upon which the hearing will be based.

**(7) RECORDS OF VIOLATIONS.** The police chief shall report to the clerk all convictions for violations of this section, and the clerk shall note any such violation on the record of the registrant convicted. The clerk shall note any complaint or report of an alleged violation made by a resident of this Village or a police officer.

**(8) REVOCATION OF LICENSE.** (a) The registrant's license may be revoked by the administrator 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 representation in the course of engaging in direct sales or solicitation, violated any provision of this section, or was convicted of any crime, ordinance violation, or statutory violation which is directly related to the registrant's fitness to engage in direct selling or solicitations.

(b) Written notice of the hearing shall be served personally on the registrant at least seventy-two hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the