

**TOWN OF EAGLE  
WAUKESHA COUNTY, WI  
ORDINANCE NO 2024-06**

**AN ORDINANCE TO REPEAL, RECREATE, AND RE-TITLE SECTION 15.02 OF THE TOWN OF EAGLE MUNICIPAL CODE ENTITLED "SOLICITORS AND CANVASSERS" TO "DIRECT SELLERS"**

**WHEREAS**, from time to time, the Town Board of the Town of Eagle considers changes to the Town of Eagle Municipal Code; and

**WHEREAS**, previously the Town Board of the Town of Eagle adopted Section 15.02 entitled "Solicitors and Canvassers" of the Town of Eagle Municipal Code which regulated solicitors and canvassers and their operation within the Town of Eagle; and

**WHEREAS**, after review of Section 15.02 of the Town of Eagle Municipal Code, the Town Board of the Town of Eagle has determined that Section 15.02 no longer best serves the interest of the Town of Eagle as currently written and should be repealed and recreated to better reflect the interests of the Town of Eagle; and

**WHEREAS**, the Town Board of the Town of Eagle has determined it to be in the best interest of the Town of Eagle and will be a benefit to the health, general welfare, and safety of the Town of Eagle residents to adopt new regulations to regulate "Direct Sellers" operating within the Town of Eagle.

**NOW, THEREFORE**, the Town Board of the Town of Eagle, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1:** Section 15.02 entitled "Solicitors and Canvassers" of the Town of Eagle is hereby repealed, recreated and retitled as follows:

**15.02 Direct Sellers.**

**(A) Registration Required.** It shall be unlawful for any Direct Seller to engage in sales within the Town of Eagle without being registered for that purpose as provided herein.

**(B) Definitions.** As used in this Section, the following terms shall have the meanings indicated:

1. **Charitable Organization.** Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.
2. **Clerk.** Town Clerk.
3. **Direct Seller.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a Permanent Merchant of such place. For purposes of this Section, "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 state.

4. **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.
5. **Permanent Merchant.** Any person who, for at least one year prior to the consideration of the application of this Section to said merchant:
  - i. Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
  - ii. Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

**(C) Exemptions.**

1. The following shall be exempt from all provisions of this Section:
  - i. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
  - ii. Any person selling merchandise at wholesale to dealers in such merchandise.
  - iii. Any person selling agricultural products which the person has grown.
  - iv. 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 the Town and who delivers such merchandise in his regular course of business.
  - v. 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.
  - vi. 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.
  - vii. Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
  - viii. 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.
  - ix. Any employee, school fund-raiser, 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 Clerk proof that such Charitable Organization is registered under § 202.12, Wis. Stats. Any Charitable Organization engaging in the sale of merchandise and not registered under § 202.12, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Section.
  - x. Any person who claims to be a Permanent Merchant but against whom a complaint has been made to the Town that such person is a Direct Seller, provided that there is submitted to the Town proof that such person has leased for at least one year or purchased the premises from which he/she has conducted business in the Town for at least one year prior to the date the complaint was made.
  - xi. Any individual licensed by an examining board as defined in § 15.01(7), Wis. Stats.
2. This Section does not apply to direct merchants while doing business at special events authorized by the Town Board.

**(D) Registration Procedure.**

1. Applicants for registration must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:
  - i. Name, permanent address and telephone number and temporary address if any.
  - ii. Age, height, weight, color of hair and color of eyes.
  - iii. Name, address and telephone number of the person, firm, association, corporation, limited liability company, limited liability partnership, family partnership or any other entity that the transient merchant represents or is employed by, or whose merchandise is being sold.
  - iv. Temporary address and telephone number from which business will be conducted, if any.
  - v. Nature of business to be conducted and a brief description of the merchandise and any services offered.
  - vi. Proposed methods of delivery of merchandise, if applicable.
  - vii. Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
  - viii. Most recent cities, villages, and towns, not to exceed three, where the applicant conducted his/her business.
  - ix. Statement as to whether the applicant has been convicted of a crime or ordinance violation related to the applicant's Direct Seller business within the last five years, and the nature of the offense and the place of conviction.
  - x. A current passport-size photo of the applicant to be attached to the registration and carried by the applicant.
2. The applicant shall present to the Clerk for examination:
  - i. A Wisconsin driver's license or a Wisconsin identification card.
  - ii. 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.
  - iii. A state health officer's certification 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 contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.
3. At the time the registration is returned, a fee set by the Town Board shall be paid to the Clerk to cover the cost of processing said registration. The applicant shall sign a statement appointing the Clerk as 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 and date the entry. Said registration shall be valid for a period of six months from the date of entry, subject to subsequent refusal as provided in Section 15.02(E)2. below.

**(E) Investigation; Refusal of Registration.**

1. Upon receipt of each application, the Clerk may refer it immediately to the appropriate agencies, which may make and complete an investigation of the statements made in such registration.

2. The 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 and/or residents 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 the material to be presented in Section 15.02(D)2. above.

**(F) Prohibited Practices; Disclosure Requirements.**

1. Prohibited Practices.

- i. A Direct Seller shall be prohibited from calling at any dwelling or other place between the hours of 6:00 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.
- ii. A Direct Seller 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 Direct Seller 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.
- iii. No Direct Seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made by vehicles, all traffic and parking restrictions shall be observed.
- iv. 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 one-hundred-foot radius of the source.
- v. No Direct Seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

2. Disclosure Requirements.

- i. Prior to the initial greeting and before any other statement is made to a prospective customer, a Direct Seller shall openly display a picture ID from the company or organization with which he/she is affiliated, expressly disclose his/her name, and identify the merchandise or services he/she offers to sell.
- ii. If any sale of merchandise is made by a Direct Seller 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 § 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 § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.

- iii. If the Direct Seller takes a sale 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.

**(G) Records.** The investigating agent/agency 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.

**(H) Revocation of Registration.**

1. Registration may be revoked by the Town Board after notice and hearing if the registrant made any material omission or materially inaccurate statements in the application for registration or 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 selling.
2. Written notice of the hearing shall be served personally or pursuant to Section 15.02(D)3. above on the registrant 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.

**SECTION 2: SEVERABILITY.** The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof in the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 3: EFFECTIVE DATE.** This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 16<sup>th</sup> day of October, 2024.

TOWN OF EAGLE

Chris Mommaerts  
Chris Mommaerts, Town Chair

ATTEST:

Mercia Christian  
Mercia Christian, Town Clerk

Published and posted this 22<sup>nd</sup> day of October, 2024.