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TOWN OF TROY
ST. CROIX COUNTY, WISCONSIN

CHAPTER 144, TOWN MUNICIPAL CODE
ORDINANCE 2006-01

An Ordinance Regulating Activities of Transient
Merchants and Solicitors in the Town of Troy

The Town Board of the Town of Troy, in order to best protect the health, safety and welfare of its residents by monitoring and regulating the activities of individuals who wish to sell or solicit door-to-door in the Town, hereby ordains as follows:

§ 144-1. Permit Required. It shall be unlawful for any transient merchant or solicitor to engage in sales activity of any kind involving goods or services in the Town of Troy without first applying for and receiving a Town permit for that purpose and having it available at all times while engaging in such activity in the Town.

§ 144-2. Definitions. For the purposes of this ordinance, the terms shown herein shall be defined as follows:

APPLICANT — One who applies for a permit to engage in sales in the Town as a transient merchant or solicitor.

CHARITABLE ORGANIZATION — A person, partnership, association or corporation with proof of tax-exempt status pursuant to Section 501(c)(3) or (4) of the United States Internal Revenue Code.

CLERK — The Clerk/Treasurer of the Town of Troy or designated agent of that office.

GOODS — Personal property of every kind including merchandise, materials, and goods provided incidental to services offered or sold. The sale of goods includes donations that are requested or required in exchange for the retention of goods or services. "Meals" as defined in Wis. Admin. Code § DHS 196.03(3m) are not goods for purposes of this ordinance.

MERCHANT — A seller of goods.

PERMANENT MERCHANT — A merchant who, for at least six months prior to the submission of an application under this Chapter has continuously operated an established place of business in St. Croix County or continuously resided in the County, doing business from his/her residence.

PERMITTEE OR PERMIT HOLDER — Each individual and/or organization issued a permit pursuant to this ordinance.

SHERIFF — St. Croix County Sheriff's Department

SOLICITOR — An individual who, for him/herself or for any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons who are not members of the organization, society, association or corporation on whose behalf the personal solicitation is/will be made.

TOWN — Town of Troy

TRANSIENT MERCHANT — Any individual who engages in the sale of goods or services in the Town on a temporary basis, without intent to become and who does not become a permanent merchant.

§ 144-3. Exemptions. The following activities are exempt from the requirements of this ordinance:

- A. Delivery of newspapers, fuel, dairy products, bakery goods or frozen food to regular customers on established routes and in response to a specific or continuing request for such delivery by such customers.
- B. Sale of agricultural products from a farm, orchard or garden when the farm, orchard or garden is occupied, and the agricultural products are grown or produced, by the seller(s).
- C. Taking orders in a location in the Town other than the merchant's established place of business, for goods regularly offered for sale by a permanent merchant, where such goods are then delivered to Town residents and where both sale and delivery occur in regular course of business of the permanent merchant.
- D. Where the buyer initiates contact and specifically requests a home visit by the seller.
- E. Sales required by statute or court order and bona fide auctions presided over by an auctioneer.
- F. Sales and solicitations by agents of charitable organizations described in IRC §501(c)(3), only after the Clerk has been provided in advance of such sales or solicitation with proof of required registration, pursuant to Wis. Stats. § 202.12.
- G. Direct sales or solicitations by a veteran holding a state license issued pursuant to Wis. Stats. § 440.51, after such veteran provides the Clerk with a copy of the said license.

§ 144-4. Permit Procedure.

- A. Permit applicants shall provide the Clerk with the following information, on forms that shall be

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available at the Town Hall during the Clerk/s regular hours:

- (1) Name, date of birth, permanent address, temporary address, all telephone number(s) for the principal and all agents of each permit applicant.
- (2) Age, height, weight and color of hair and eyes of each such individual.
- (3) Name, date of birth, permanent and temporary address and all telephone number(s) of the person or organization on whose behalf sales or solicitation will be made in the Town.
- (4) Location and all telephone number(s) from which sales or solicitation will be conducted, if any.
- (5) Nature of sales or solicitation to be conducted and a brief description of the goods and/or services offered.
- (6) Dates and times during which sales or solicitations will occur under the permit.
- (7) How and when goods that are sold will be delivered.
- (8) Make, model, license number and licensing state for each vehicle that will be used in the door-to-door conduct of sales or solicitation.
- (9) Last three cities, villages or towns where the applicant conducted similar sales or solicitation activity.
- (10) An address and phone number where the applicant can be contacted for at least seven days after leaving the Town.
- (11) Disclosure, as to the permit applicant and all agents of the permit applicant, of all convictions for any crime or other statute or ordinance violation during the last five years where the offense giving rise to the conviction or violation is related to the applicant or agent's sales or solicitation activities in any way, and specifying the nature of the offense, place of conviction/violation and approximate time of the conviction or violation.

B. Permit applicants shall present the following items to the Clerk as part of the application process:

- (1) A driver's license, photo ID or other reliable proof of identity.
- (2) Current Sellers Permit issued by the Wisconsin Department of Revenue, where required.

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- C. No permit application shall be accepted until the application fee is paid to the Clerk at the time of presentation of a complete application. The application fee for each permit applicant and for each agent who will operate in the Town on behalf of the applicant shall be established in the Town's fee schedule.
- D. No permit application shall be accepted unless the applicant signs a statement submitting to the personal and subject matter jurisdiction of the St. Croix County Circuit Court with reference to all activity undertaken in the Town and authorizing the Clerk to accept service of process in any civil action brought against the applicant and arising out of any sale, service performed or solicitation activities of the applicant in the event that the applicant cannot, after reasonable effort, be personally served.

§ 144-5. Investigation; Application Denial.

- A. Before issuing any permit under this Chapter the Clerk shall promptly contact the last three cities, villages or towns where the applicant conducted similar sales or solicitation activity and forward to each complete permit application. The Clerk shall also conduct an investigation through the Wisconsin Department of Justice Crime Information Bureau for a report on the permit applicant. No permit shall be issued until after a response has been received from the Crime Information Bureau.
- B. The Clerk shall not issue a permit to an applicant if the Crime Information Bureau report or the inquiry to the last three cities, villages or towns, or the Clerk concludes that any of the following have taken place:
 - (1) The application contains material omissions or materially inaccurate statements.
 - (2) Material complaints concerning the applicant or any agent of the applicant were received in any of the last three municipalities in which the applicant conducted direct sales or solicitations.
 - (3) The applicant or any agent of the applicant was convicted of a crime or was found or is otherwise known to have committed a statutory or ordinance violation during the last five years for an offense that is directly related to the applicant's or agent's fitness to engage in selling or solicitation in the Town, in the judgment of the Clerk. .
 - (4) The applicant otherwise has failed to comply with this Chapter.
- C. Appeal. An applicant who is denied a permit by the Clerk may appeal the denial by filing a written statement with the Clerk within 14 days after receiving written notice of permit denial, setting forth the grounds for the appeal and requesting a hearing. The Town Board shall hear the matter at its next regular meeting. The applicant shall be given written notice of the hearing.

§ 144-6. Permit Issuance.

- A. Following receipt of the application, satisfactory investigation outcomes and payment of the required fees, the Clerk shall register the applicant as a transient merchant or solicitor and issue a permit for such activity, specifying the time during which it shall be effective. The applicant and each agent shall sign and date the application form, acknowledging receipt of a copy of this ordinance.
- B. The permit shall bear the Clerk's signature, the name and address of the transient merchant or solicitor, the type of goods or services being sold or the nature of the solicitation, the license number of any vehicle(s) being used in the Town for sales or solicitation and the permit expiration date.
- C. Permit holders shall exhibit their Town permit:
 - (1) On any stand, cart, or other similar device used for sales;
 - (2) At each residence and to each individual where sales or solicitation activity is attempted; and
 - (3) To any police officer or Town official who requests that it be shown.
- D. Permits issued pursuant to this ordinance expire annually, on December 31. There shall be no prorating of any fees.

§ 144-7. Prohibited Acts; Disclosure Requirements.

- A. Prohibited practices.
 - (1) A transient merchant or solicitor conducting any sales activity in the Town shall not:
 - (a) Call at any dwelling between the hours of 8:00 p.m. and 9:00 a.m., unless by advance appointment.
 - (b) Call at any dwelling or other place where a sign is displayed that says "No Peddlers," "No Solicitors" or words of similar meaning.
 - (c) Call at or otherwise seek to enter the rear door of any dwelling.
 - (2) Transient merchants and solicitors shall not misrepresent or make false, deceptive or misleading statements about the quality, quantity or character of any goods or services offered for sale, about the purpose of the visit, about his/her identity or about the identity of the organization he/she represents. A transient merchant or solicitor representing a charitable or religious organization shall, upon request, specifically

disclose what portion of the donation or sale price of goods being offered will actually be used for the charitable or religious purpose for which the individual is soliciting, as a percentage of the sale price of the goods or services and otherwise comply with Wis. Stats. Chapter 202.

B. Disclosure Requirements.

- (1) After the initial greeting and before any attempt at sales or solicitation is made, a transient merchant or solicitor shall provide the prospective customer or donor with his/her name, the name of the company or organization he/she is affiliated with, identify the goods or services he/she wants to sell and show the Town permit to the prospective customer or donor.
- (2) If a transient merchant or solicitor takes an order that requires or calls for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing all terms of their sales agreement, the amount paid in advance whether full, partial or none, the name, address and telephone number of the seller, the anticipated delivery date, whether any guaranty or warranty exists and, if so, the terms thereof.
- (3) Transient merchants, and solicitors shall comply with all applicable provisions of the Wisconsin Consumer Act as set forth in Wis. Stats. Chapters 421-427.

§ 144-8. Record of Violations. . The Clerk shall keep a record of all complaint or reports of alleged violations from Town residents.

§ 144-9. Permit Revocation.

- A. A permit issued under this Chapter may be revoked by the Town Board, after notice and hearing, upon determining that a permit holder has:
- (1) made a material omission or materially inaccurate statement in an application for a Town permit;
 - (2) made a fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales or solicitation;
 - (3) been determined to have violated any provision of the Wisconsin Consumer Act;
 - (4) been convicted of any crime or found guilty of any ordinance or statute violation directly related to the permit holder's fitness to engage in sales or solicitations;

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(5) engaged in any other conduct that the Town Board finds to jeopardize the public health, safety, and welfare.

B. Written notice of the Town Board meeting at which revocation will be considered shall be served on the permit holder at least 72 hours prior to the hearing at the address provided in the application and shall contain the time and place of hearing and a general statement of the grounds on which revocation is being considered.

§ 144-10. Violations and Penalties. Sales or solicitation activity not in compliance with this Chapter violates it regardless of knowledge or intent to violate, and shall subject the party or parties responsible to an action for an injunction, to require that the violation be cured or ceased or that remedial action be undertaken to achieve compliance, and/or an action for forfeiture(s), in an amount set by the Town Board, plus the Town's actual costs of prosecution. The amount of the forfeiture shall be set forth in the Town's Citation Ordinance. Each day during which a violation exists is a separate offense. The remedies set forth herein are cumulative.

§ 144-11. Severability Clause. If any part of this ordinance is found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the validity of the remaining sections of the ordinance shall not be affected.

§ 144-12. Inclusion in Code. It is the intention of the Town Board and it is hereby provided that the provisions of this Chapter may be made part of the Code of the Town of Troy; that this Chapter may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," "chapter," or other appropriate designation at that time.

Enacted by the Troy Town Board on June 8, 2006; amended by Town Board action on June 9, 2016; amendment effective date: July 1, 2016.