

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN
Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: Regulation of Peddlers and Transient Merchants

Code Section(s) created, amended, or repealed	<u>11.07</u>
Presented to Board by	<u>Town Clerk</u>
Committee Review by	<u>Ordinance Committee</u>
Date(s) Public Hearing(s) held (if required)	<u>August 21, 2006</u>
Date adopted	_____
Vote	_____
Date of posting of adoption of ordinance	_____
Date of publication (if required)	_____

The Town Board of the Town of Cottage Grove does ordain as follows:

1. Section 11.07 shall be amended to read as follows:

11.07.02 REGULATION OF PEDDLERS AND TRANSIENT MERCHANTS.

~~[The text of the peddlers ordinance adopted in May 1992, follows; subject to revision to conform with ordinance code format adopted on 18 Oct 1993.]~~

(1) REGISTRATION REQUIRED. It shall be unlawful for any transient merchant to engage in sales within the Town of Cottage Grove without being registered for that purpose as provided herein.

~~(2)~~7.04 DEFINITIONS. In this ordinance:

~~(1a)~~ (1a) "Transient merchant" means any individual who engages in the retail sale of merchandise at any place in the Town 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 constitutes 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

~~(2b)~~ (2b) "Permanent merchant" means any person who, for at least six months ~~prior to the consideration of the application of this ordinance to said merchant~~ (a) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale or (i) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from her/his residence.

~~(3c)~~ (3c) "Merchandise" shall include 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.

~~(d4)~~ (d4) "Charitable organization" shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

~~(e5)~~ (e5) "Clerk" means the Town Clerk.

(6f) "Sales" means solicitation for purchase of services, good or combination thereof.

~~(3)7.05~~ EXEMPTIONS. The following shall be exempt from all provisions of this ordinance.

~~(1a)~~ Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

~~(b2)~~ Any person selling merchandise at wholesale to dealers or retailers in such merchandise;

~~(3c)~~ Any person selling agricultural products which that person has grown;

~~(d4)~~ 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;

~~(e5)~~ 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 their regular course of business;

~~(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 the prospective customer;~~

~~(7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;~~

~~(8f)~~ 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;

~~(g) Governmental agents and employees in the performance of their official duties~~

~~(9h)~~ 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 clerk proof that such charitable organization is registered under Wis. Stat. s. 440.4142. Any charitable organization engaging in the sale of merchandise and not registered under Wis. Stat. s. 440.412, or which is exempt from that statute's registration requirements, shall be required to register under this ordinance;

~~(10) 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 leased for at least one year, or purchased, the premises from which she/he has conducted business in the market area for at least one year prior to the date the complaint was made;~~

~~(11) Any individual licensed by an examining board as defined in Wis. Stat. s. 15.01(7).~~

~~(i12)~~ This ordinance does not apply to transient merchants while doing business at special events or under other licenses authorized by the Town Board.

~~(4)7.06~~ REGISTRATION.

~~(+a)~~ Applicants for registration must complete and return to the clerk a registration form furnished by the clerk which shall require the following information:

~~_____ a1)~~ name, permanent address and telephone number, and temporary address, if any;

~~_____ 2b)~~ age, height, weight, color of hair and eyes, and sex;

~~_____ 3e)~~ 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;

~~_____ 4d)~~ temporary address and telephone number from which business will be conducted, if any;

~~_____ e5)~~ nature of business to be conducted and a brief description of the merchandise, and any services offered;

~~_____ f6)~~ proposed methods of delivery of merchandise, if applicable;

~~_____ g7)~~ make, model and license number of any vehicle to be used by applicant in the conduct of her/his business;

~~_____ h8)~~ most recent cities, villages, towns, not to exceed three, where applicant conducted her/his business;

~~_____ i9)~~ place where applicant can be contacted for at least seven days after leaving the Town;

~~_____ 10j)~~ statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.

~~(kb)~~ Applicants shall present to the clerk for examination:

~~_____ 14)~~ a driver's license or some other proof of identity as may be reasonably required;

~~_____ 2m)~~ 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;

~~_____ 3n)~~ 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, dated not more than ninety (90) days prior to the date the application license is made.

~~(c3)~~ At the time ~~of license the~~ registration ~~is returned~~, a fee ~~of \$5.00~~ shall be paid to the clerk to cover the cost of processing said registration. The registration fee shall be set by resolution of the Town Board.

~~_____ 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.~~

~~(d) Upon payment of said fee and satisfactory completion of the investigation under section (5) below, and the signing of said statement, the clerk 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, unless revoked subject to subsequent refusal as provided below in Section 7.07(2) below.~~

~~(e) Any person refused or denied registration may appeal the denial to the Town Board which shall follow the procedure set forth under section (7) below.~~

~~(5)7.07 INVESTIGATION.~~

~~(1a) Upon receipt of each application, the clerk may refer it immediately to the Police Department who may make and complete an investigation of the statements made in such registration.~~

~~(2b) 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 ~~made~~received against the applicant by authorities in the most recent cities, villages and towns, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) 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 (4)7.06(2)~~ above.~~

~~(c) The Chief of Police, or designee, shall report to the clerk any charges or convictions under this ordinance and the clerk shall note any such violation on the record of the transient merchant.~~

~~7.08 — APPEAL. Any person refused or denied registration 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 Wis. Stat. secs. 68.07 through 68.16.~~

~~(7)6.09 REGULATION OF TRANSIENT MERCHANTS.~~

~~(1a) Prohibited Practices.~~

~~a1) A transient merchant shall not: call at any dwelling or other place between the hours of 9:00 P.M. and 9:00 A.M. except by appointment; call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; call at the rear door of any dwelling place; or remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.~~

~~b2) 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 her/his visit, her/his identity or the identity of the organization she/he represents. If requested, 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.~~

e3) No transient merchant shall by his or her activities 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.

d4) 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.

e5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which she/he is conducting business.

(2b) Disclosure Requirements.

a1) ~~During all transactions, 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.

b2) ~~If any sale of merchandise is made by a~~The -transient merchant shall comply with all consumer protections laws, including but not limited to the requirements for consumer approval transactions under Chapter 423 of the Wisconsin Statutes, as may be amended. ~~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 twenty five dollars (\$25) in accordance with the procedure as set forth in Wis. Stat. s.. 423.202; 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 Wis. Stat., secs. 423.202(1)(a)(b) and (c), (2) and (3).~~

e3) 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.

~~7.10 RECORDS. The Chief of Police shall report to the clerk all convictions for violation of this ordinance and the clerk shall note any such violation on the record of the registrant convicted.~~

~~(7)7.11~~ REVOCAION OF REGISTRATION.

(a1) Registration may be revoked by the Town Board ~~and/or the Town Clerk~~ after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales, violated any provision of this Ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling. A signed statement or complaint setting forth the request and/or basis for license revocation may be made by the Town Clerk, Police Chief or other Town resident.

(b2) Written notice of the hearing shall be served ~~ed~~ personally or via U.S. Mail to the transient merchant's permanent address pursuant to 7.06(3) above on the registrant at least seventy-two (72) hours prior to the time set for the hearing. ~~;~~sSuch notice shall contain the time and place of hearing

and a statement of the acts upon which the hearing will be based. The hearing shall be in front of the Town Board. The complainant and transient merchant may present and cross examine witnesses, and present other information to the Town Board.

~~(87.12)~~ PENALTY. The penalty for violation of this Ordinance as provided in TCG 25.04 Section _____ of this Code with shall be a forfeiture Class of "B-" forfeiture.

~~7.13~~ EFFECTIVE DATE. This ordinance shall take effect upon passage and publication.

~~(97.)14~~ SEVERANCE CLAUSE. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

(11) EFFECTIVE DATE. This ordinance shall take effect upon passage and publication.

Adopted this 21st day of August, 2006

Kris Hampton, Town Chair

ATTEST:

Kim Banigan, Town Clerk

Approved as to form this
____ day of _____, 2006.

Constance L. Anderson, Esq.
Cottage Grove Town Attorney
Gregory D. Murray, Esq.
Cottage Grove Assistant Town Attorney

TOWN OF COTTAGE GROVE

Peddler/Transient Merchant Application

Pursuant to the ordinances of the Town of Cottage Grove, Dane County, Wisconsin, the following information must be provided to the Town Clerk before issuance of a permit to conduct business, and you must provide a current state driver's license or ID card for verification by the Clerk. An application must be completed by each individual conducting business.

PLEASE PRINT OR TYPE

Applicant Name: _____
 LAST FIRST MI

Permanent Address: _____
 STREET NUMBER, NOT P.O. BOX CITY STATE ZIP

Permanent Phone Number: (___) ___ - ___

Temporary Address while in this area: _____

Age: ___ Height: ___ Weight: ___ Hair Color: ___ Eye Color: ___ Sex: M / F

Name of Business: _____

Business Address: _____
 STREET NUMBER, NOT P.O. BOX CITY STATE ZIP

Business Phone#: (___) ___ - ___ Web Page(optional): _____

Temporary Place from which business will be conducted (if any):

Address: _____ Phone #: (___) ___ - ___

Nature of Business (describe merchandise/services offered): _____

Proposed methods of delivery of merchandise, if applicable: _____

Vehicle Make: _____ Model: _____ Year: _____ Color: _____

License Plate #: _____ State: _____

(Continued on Reverse)

Most Recent Cities, Villages, Towns where you conducted business:

1. _____
2. _____
3. _____

Place where you can be contacted for at least seven days after leaving the Town of Cottage Grove:

_____ Phone: (____) ____ - ____

Have you been convicted of any crime or ordinance violation related to your transient merchant business within the last five years (circle one): Yes / No

If Yes, please describe nature of the offense and place of conviction: _____

I have read and understand the ordinance concerning solicitors/peddlers in the Town of Cottage Grove, Dane County, Wisconsin, and agree to abide by those rules. I further state that the information I have provided above is true and correct.

Signature: _____ Date: _____

Clerk's Use Only

- Fee Amount: _____ Paid by: Cash / Check # _____
- Proof of Identity (Driver's License, State ID Card, Other: _____)
- State certificate of examination and approval from the sealer of weights and measures (if business requires weighing and measuring devices)
- State Health Officer's Certificate (if business involves handling of food or clothing, and is required to be certified under state law; such certificate t state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date of application for license is made).
- License Issued for Effective Dates: _____ thru _____
- Application and Permit faxed to Police Department on date: _____

TOWN OF COTTAGE GROVE
COTTAGE GROVE, WISCONSIN 53527

Peddler/Transient Merchant Permit

The individual listed below has applied for and has received a permit to solicit within the limits of the Town of Cottage Grove. Issuance of this permit does not in any way act as an endorsement of the product, seller or company by the Town of Cottage Grove, their officers or their employees.

Name of permit holder: _____

Company Represented: _____

Permit Valid Dates: _____ thru: _____

(Corporate Seal)

Given under my hand and the corporate seal of
the **TOWN OF COTTAGE GROVE**
County of Dane, State of Wisconsin,
This ____ day of _____, 20__.

Clerk