

**CHAPTER 4**

Direct Sellers

(Ordinance No. 2025-03, 01/28/2025)

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
7-4-1	Direct Sellers		

**Sec. 7-4-1 DIRECT SELLERS.**

- (a) **Findings and Purposes.** This Section is based on the following findings and purposes:
  - (1) The Village finds that persons and organizations have been visiting and continue to visit private residential properties, as well as privately-owned businesses, for the purpose of selling goods and/or services.
  - (2) The Village has a substantial interest in protecting the community by collecting sufficient information to ensure that persons, without permanent ties to the area, who are engaged in direct selling are identifiable and accountable to the public.
  - (3) The Village has a substantial interest in protecting individuals’ safety and privacy by reasonably limiting the hours of direct selling and requiring registration in a content neutral manner.
  - (4) The Village has a substantial interest in allowing individuals to determine their level of comfort with privacy and whether or not they want to receive solicitations for direct sales.
  - (5) Noncommercial speech is entitled to broader protection under the 1st Amendment to the United States Constitution than commercial speech, affording the Village a greater ability to regulate commercial speech than noncommercial speech.
  - (6) All of these goals and interests may properly be served by this narrowly tailored regulation which requires direct sellers to register prior to soliciting within the Village, reasonably limits the hours of activities and prohibits solicitation of occupants on property where residents have enrolled in the Village’s “do not solicit” registry, or have a posted sign prohibiting such activities.
  - (7) This ordinance furthers the Village’s substantial interest in balancing free speech and expression with the health, safety and welfare of the residents of the Village.
  
- (b) **Registration required.** No direct seller shall engage in direct sales within the Village without being registered as provided herein.
  
- (c) **Definitions.** As used herein, the following words and phrases are defined as follows:
  - (1) **“Charitable Organization”** means an organization that is described in section 501(c)(3) of the internal revenue code and that is exempt from taxation under section 501(a) of the internal revenue code, or a person who is or purports to be established for a charitable purpose as defined herein.
  - (2) **“Charitable Purpose”** means any of the following:
    - a. A purpose described in Section 501(c)(3) of the internal revenue code.

- b. A benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary objective.
    - c. The purpose of a school club or school group, recognized and affiliated with a public or private school, having a program that includes fundraising campaigns to support the public or private club or group.
  - (3) **“Clerk”** means the Village Clerk.
  - (4) **“Direct Seller”** means any person who sells goods or services or takes orders for the later delivery of goods or services at any location other than that of a permanent merchant.
  - (5) **“Goods”** Includes personal property of any kind and shall include goods provided incidental to services offered or sold.
  - (6) **“Permanent Merchant”** is a direct seller who, for at least one year prior to the consideration of the application of this section to such merchant, has continuously:
    - a. Operated an established place of business in the Village, or
    - b. Resided in the Village and now does business from a residence, if allowed by Title 16 of the Village’s Municipal Code pertaining to zoning.
- (d) **Exemptions.** The following shall be exempt from all provisions of this section:
  - (1) Any sale required by statute or by order of any court or any person conducting a bona fide auction sale pursuant to law.
  - (2) Persons solely engaged in acts of political or religious speech or the free exercise of religion to the extent such acts are protected under the Wisconsin and United States Constitutions.
  - (3) Products or services exempted by statute.
  - (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 the Village and who delivers such goods in the 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, such 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 the prospective customer.
  - (7) Any Village resident under the age of 19 who engages in direct sales for or on behalf of a charitable organization provided that (a) the person engaged in direct sales is not paid for such services and remits all proceeds from sales to the charitable organization, and (b) proof is submitted to the Clerk that such charitable organization is registered by the State or a letter from a public or private school administrator is provided that acknowledges the school affiliation of the school club or group and its program that includes fundraising campaigns to support the public or private school club or group.
- (e) **Registration.**
  - (1) Applicants for registration as a direct seller must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following

information:

- a. Name, permanent address, telephone number, and, if any, of the applicant.
  - b. Photocopy of a Driver's license or state issued ID of the applicant.
  - c. Name, address and telephone number of the person, firm, association or corporation or other entity that the applicant represents or is employed by or whose merchandise is being sold.
  - d. Temporary address and telephone number from which business will be conducted, if any, of the applicant.
  - e. Nature of business to be conducted and a brief description of the goods offered and any services offered.
  - f. Proposed method of delivery of goods, if applicable.
  - g. Make, model and license number of vehicles to be used by the applicant in the conduct of the business if applicable.
  - h. Cities, villages, and towns, not to exceed three, where the applicant most recently conducted similar business.
  - i. Statement as to whether the applicant has been convicted of any crime or ordinance violation substantially related to the applicant's business within the last five years, the nature of the offense and the place of conviction.
- (2) Applicants shall present to the Clerk for examination and copying:
- a. A driver's license or some other proof of identity as may be reasonably required.
  - b. A certificate of examination and approval from an inspector or sealer of weights and measures from the Wisconsin Department of Agriculture, Trade and Consumer Protection where the applicant's business requires use of weighing and measuring devices.
  - c. A current seller's permit issued by the Wisconsin Department of Revenue to the business.
- (3) At the time a complete registration form is returned, a fee as set by the Village Board shall be paid to the Clerk to cover the cost of processing the application and the background investigation.
- (4) At the time a complete registration form is returned, the applicant shall also sign a statement appointing the Clerk as 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 if the applicant cannot, after reasonable effort, be served personally.
- (5) Upon payment of the fee and signing of the statement, the Village Clerk shall conduct a background investigation into the application to determine compliance with this section pursuant to Subsection E below.

(f) **Background Investigation.**

- (1) Upon receipt of each application, the Clerk shall complete an investigation of the statements made in such registration and make a determination on whether to approve the application within 10 business days. If no determination is made within that time, the application shall be deemed approved.
- (2) Based upon the results of the background investigation, the Clerk may refuse to register the applicant if it is determined, pursuant to the investigation above, that:

- a. The application contains any material omission or materially inaccurate statement, or the required documentation was not provided.
  - b. The applicant's license, permit or registration to engage in direct sales was revoked by one or more authorities in the last three cities, villages and towns in which the applicant conducted similar business.
  - c. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is substantially related to the applicant's fitness to engage in direct selling.
- (3) The Clerk's determination to refuse the registration shall be reduced to writing setting forth the reasons for the decision ("Initial Determination").
- (g) **Appeal.** Any person denied registration may appeal the Initial Determination through the appeal procedure under the provisions of Title 4 of the Code of Ordinances for the Village of Caledonia.
- (h) **Regulation of direct sellers.**
- (1) No person shall do any of the following upon visiting any business or residence in the Village:
    - a. Falsely or fraudulently misrepresent the quantity, character or quality of any article or service offered for sale, or offer for sale any unwholesome or tainted food or foodstuffs, nor shall intentionally misrepresent to any prospective customer the purpose of his or her visit, nor the name of the business of his or her principal, if any, nor the source of supply of the goods, wares, merchandise or services which he or she sells or offers for sale, nor the disposition of the proceeds or profits of his or her sales.
    - b. Keep any facilities or premises in an unclean or unsanitary condition or foodstuffs offered for sale uncovered and or unprotected from pathogens, dirt, dust and insects.
    - c. Engage in door-to-door selling of goods, wares, merchandise, services, or soliciting other than between the hours of 9:00 a.m. to 9:00 p.m.
    - d. Call on any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of a similar meaning.
    - e. Call at the rear or side door of any dwelling place, or remain on premises after being asked to leave by the owner, occupant, or any other person having authority over such premises.
    - f. Use any permit provided by the Village after the expiration or revocation of the permit.
    - g. Knowingly provide false information in the submission of any application or registration under this article.
    - h. Trespass on residential property that has been listed on the "do not solicit for commercial sales registry (do not solicit registry)" by the owner or person in possession of that property as a property on which direct sellers may not enter for purposes of engaging in commercial speech of any kind. The do not solicit registry shall be maintained by the Village and be provided to all direct sellers and solicitors who wish to determine whether they have consent to visit certain private residences and other properties for purposes of engaging in commercial speech. It shall be maintained on the

- Village’s website and updated weekly.
- i. Make any loud noises or use any sound amplifying devices to attract customers if the noise is capable of being plainly heard outside a one-hundred-foot radius of the source.
- (2) Disclosure requirements.
- a. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization the direct seller is affiliated with, if any, and the identity of goods or services being offered.
  - b. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel the 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.
  - c. If the direct seller takes a sales order for the later delivery of goods, he 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.
- (h) **Records.** The Chief of Police shall report to the Clerk all convictions for violation of this section and the Clerk shall note any such violation on the record of the registrant convicted.
- (i) **Revocation of registration.**
- (1) Registration may be revoked by the Village Board, 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, violated any provision of this section, or was convicted of any crime, ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
  - (2) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.
- (j) **Severability.** If any section, subsection, sentence or phrase of this ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.
- (k) **Conflicting Ordinances.** All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby and to such extent repealed.”
1. That this ordinance shall take effect upon adoption and publication by law.