

ORDINANCE NO. 611

An Ordinance of the Municipal Code of the City of Kiel Amending Chapter 12 (in Regards to Direct Sellers)

The Common Council for the City of Kiel do ordain as follows:

SECTION 1: Chapter 12.01 is hereby amended to read as follows:

12.01 LICENSES REQUIRED. A license shall be required for each of the following at the indicated license fee, which shall be for one year unless otherwise indicated.

- (1) BICYCLES. \$1 for 2 years.
- (2) CIGARETTE SALES. \$100.
- (3) DIRECT SELLERS. ~~\$10 processing fee.~~ \$60 per month

And Chapter 12.06 is hereby amended to read as follows:

12.06 DIRECT SELLERS.

- (1) REGISTRATION REQUIRED. No direct seller shall engage in direct sales within the City without being registered for that purpose as provided herein.
- (2) DEFINITIONS. For the purposes of this Section, the following words and phrases shall be defined as:
 - (a) Direct Seller. Any individual who, for himself or for a partnership, association, limited liability company or corporation, sells goods or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of such individual, partnership, association, limited liability company or corporation and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
 - (b) Permanent Merchant. A direct seller who, for at least one year prior to the consideration of the application of this Section to such merchant, has continuously operated an established place of business in the City, or has continuously resided in the City and now does business from his residence.
 - (c) Goods. Includes personal property of any kind and shall include goods provided incidental to services offered or sold.
 - (d) Charitable Organization. Any benevolent, philanthropic, patriotic or charitable person,

partnership, association or corporation or one purporting to be such.

(e) Administrator. The Administrator.

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

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

(b) Any person selling goods at wholesale to dealers in such goods.

(c) Any person selling agricultural products which such person has grown.

(d) 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 City and who delivers such goods in their regular course of business.

(e) 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.

(f) 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.

(g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

(h) 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.

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the Police Department proof that such charitable organization is registered under Section 440.42, Wis. Stats. Any charitable organization not registered under Section 440.42, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Section.

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Police Department that such person is a transient merchant; provided that there is submitted to the Police Department proof that such person has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in the City for at least one year prior to the date complaint was made.

(4) REGISTRATION.

(a) Applicants for registration shall complete and return to the Police Department a registration form furnished by the Police Department which shall require the following information:

1. Name, permanent address and telephone number and temporary address, if any.
2. Age, height, weight, color of hair and eyes.
3. Name, address and telephone number of the person, firm, association, limited liability company or corporation that the direct seller represents or is employed by, or whose merchandise is being sold.
4. Temporary address and telephone number from which business shall be conducted, if any.
5. Nature of business to be conducted and a brief description of the goods offered and any services offered.
6. Proposed method of delivery of goods, if applicable.
7. Make, model and license number of any vehicle to be used by applicant in the conduct of his business.
8. Last cities, villages, towns, not to exceed 3, where applicant conducted similar business.
9. Place where applicant can be contacted for at least 7 days after leaving the City.
10. Statement as to whether applicant has been convicted of any crime or ordinance violation ~~related to applicant's transient merchant business within the last 5 years~~; the nature of the offense and the place of conviction.

(b) Applicants shall present to the Police Department 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 weighting 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 shall state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(c) At the time the registration is returned, the fee required in Section 12.01 shall be paid to the Police Department ~~to cover the cost of processing such registration~~. ~~The applicant shall pay the fee in advance for all months they intend to act as a direct seller. Under no circumstances will an applicant be allowed to purchase more than 12 months in a 12 month period.~~

(d) The applicant shall sign a statement appointing the Police Department his 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.

(e) Upon payment of the fee and the signing of the statement, the Administrator shall register the applicant as a direct seller and date the entry. ~~Such registration shall be valid for a period of one year from the date of entry~~ Such registration shall be valid for the month immediately following the month the registration application is received by the police department, subject to subsequent refusal as provided in sub. (5)(b), below.

(5) INVESTIGATION.

(a) Upon receipt of each application, the Chief of Police shall make and complete an investigation of the statements made in such registration.

(b) The Police Department 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 in the last cities, villages and towns, not exceeding 3, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation ~~within the last 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 sub. (4)(b), above.

(6) APPEAL. Any person denied registration may appeal the denial through the appeal procedure provided in Chapter 24 of this Municipal Code.

(7) REGULATION OF DIRECT SELLERS.

(a) Prohibited Practices.

1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 9 p.m. and 9 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.
2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered shall actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the goods.
3. No direct seller shall 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.

4. 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 100' radius of the source.
5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell. 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 cash transaction of more than \$25, in accordance with the procedure as set forth in Section 423.203, Wi Stats., and the seller shall give the buyer 2 copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Section 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.
2. 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.

(8) REVOCAION OF REGISTRATION

- (a)** Registration may be revoked by the City Council after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application of 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 or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b)** 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 hearing and a statement of the acts upon which the hearing will be based.

SECTION 2: This ordinance takes effect upon passage and publication in accordance with the law.

Ordinance No. 611 introduced on May 14, 2024 by Alderperson _____,
seconded by Alderperson _____.

Upon a call of votes thereof, the result was as follows:

_____ Votes Cast
_____ Votes Aye
_____ Votes Nay

The Mayor declared Ordinance No. 611 introduced and approved this 14th day of
May, 2024

MICHAEL STEINHARDT, Mayor

COUNTERSIGNED:

CASEY WITTERHOLT, City Administrator