

AN ORDINANCE PROVIDING FOR THE
LICENSING AND REGULATION OF DIRECT SELLERS

BE IT ORDAINED by the Board of Trustees of the Town of Plainfield, Indiana, that:

Section 1. Registration required. It shall be unlawful for any direct seller to engage in direct sales within the city without being registered for that purpose as provided herein.

Section 2. Definitions. (a) "Direct seller" means any individual who, for himself, or for a partnership, association 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 said individual, partnership, association 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" means a direct seller who, for at least one year prior to the consideration of the application of this ordinance to said merchants, has continuously operated an established place of business in this city or has continuously resided in this city and now does business from his residence.

(c) "Goods" shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

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

(e) "Clerk" shall mean the town clerk.

Section 3. Exemptions. The following shall be exempt from all provisions of this ordinance:

(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 or produced in Hendricks County, Indiana and is being sold by a resident of Hendricks County, Indiana;

(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 the 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, said 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 which has secured a permit as provided for in Volume 2A §40.51.

Section 4. Registration. Applicants for registration must complete and return to the clerk at least three (3) days before such applicant shall be authorized to do business a registration form furnished by the clerk which shall require the following information:

Name, permanent address and telephone number, and temporary address, if any;

Age, height, weight, color of hair and eyes;

Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;

Temporary address and telephone number from which business will be conducted, if any;

Nature of business to be conducted and a brief description of the goods offered, and any services offered;

Proposed method of delivery of goods, if applicable;

Make, model and license number of any vehicle to be used by applicant in the conduct of his business;

The last three previous cities, villages, towns, where applicant conducted similar business;

Place where applicant can be contacted for at least seven days after leaving the city;

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; the nature of the offense and the place of conviction.

Such application shall be accompanied by a bond in the sum of Two Hundred Fifty (\$250.00) executed by a surety company, or by two responsible freeholders residing within the corporate limits of the Town of Plainfield, or a cash bond of equal amount, said bond conditioned that all goods, wares, merchandise or articles sold by such applicant will be as represented by him and that he will refund the purchase price of any goods, wares, merchandise or articles sold by him which are not as represented. Any person aggrieved by the action of a licensed Direct Seller hereunder shall have a right of action on the bond or other surety for the recovery of money or damages or both. In the event a cash bond is deposited, the same shall be retained by the Town of Plainfield for sixty (60) days after the expiration of any license issued upon said bond or surety.

Section 5. Additional information. Each applicant shall present to the clerk for examination:

A driver's license or some other proof of identity as may be reasonably required;

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;

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 days prior to the date the application for license is made;

Section 6. License. At the time the registration and surety are returned and the bond approved by the Clerk, a license shall be issued by the Clerk of the Town of Plainfield to such applicant to begin business not less than three (3) days after the date of filing such application and bond, upon payment of the following fees: for one (1) day \$20.00; for one (1) week \$50.00; for one (1) month \$100.00.

Upon payment of said fee, the clerk shall register the applicant as a direct seller and date the entry and issue the license. If any such licensee desires to continue in business after the expiration of such license, a new license must be secured in the same manner and upon the same terms as the original license, subject to subsequent refusal as provided in section 6.

Section 7. Investigation. Upon receipt of each application, the clerk may refer it immediately to the chief of police who may make and complete an investigation of the statements made in such registration.

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 and proven against the applicant by authorities in the three previous 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 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.

Section 8. Appeal. Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the city council.

Section 9. Regulations. The following regulations shall govern the conduct of registrants hereunder:

It shall be unlawful for any direct seller to call at any dwelling or other place between the hours of 7 p.m. and 9 a.m.

except by appointment; to call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No solicitors" or words of similar meaning; to call at the rear door of any dwelling place; or to remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

It shall be unlawful for a direct seller to 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 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 goods.

It shall be unlawful for any direct seller to 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.

It shall be unlawful for any direct seller to 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.

It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

Section 10. Disclosure requirements. The following requirements shall govern the conduct of registrants:

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 said transaction if it involves the extension of credit or is a cash transaction of more than twenty-five dollars.

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.

Section 11. 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.

Section 12. Revocation of registration. The registration of a direct seller may be revoked by the city council for any violation of this ordinance.

Section 13. Penalty. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than five dollars nor more than one hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 14. Effective Date. This ordinance shall be in full force and effect from and after its adoption, approval by the Board of Trustees of the Town of Plainfield, and publication as required by law.

Section 15. This Ordinance specifically repeals ORDINANCE NO. 8, adopted on or about October 24, 1966 by the Town of Plainfield entitled "AN ORDINANCE REGULATING THE BUSINESS OF ITINERANT MERCHANTS AND SOLICITORS".

PASSED and adopted by the Board of Trustees of the Town of Plainfield, Indiana, on this 25th day of February, 1985.

Paul W. Naddy
Robert G. Baumgardner
Robert M. Clark
Henry W. Hane

ATTEST:

Jubiana M. Hummel
Clerk-Treasurer